



People with Disability Australia (PWDA)

Royal Commission into Institutional Responses to Child Sexual Abuse: Schools Issues Paper

**Submission
September 2015**

Contact details:

Dr Jessica Cadwallader

Advocacy Projects Manager, Violence Prevention
People with Disability Australia Incorporated
PO Box 666 Strawberry Hills NSW 2012
Tel: 02 9370 3100
Fax: 02 9318 1372
jessc@pwd.org.au

Ms Meredith Lea

Advocacy Projects Officer, Violence Prevention
People with Disability Australia Incorporated

Contents

About People with Disability Australia	3
Introduction	3
Topic A: General questions	9
Topic B: Governance and leadership	14
Topic C: Protection and support services for children and specific student populations	15
Topic D: Registration of non-government schools, not-for-profit and corporate entities Error! Bookmark not defined.	
Topic E: Education, training, professional support and primary prevention.....	20
Topic F: Reporting, information sharing, complaints and investigations	25

About People with Disability Australia

People with Disability Australia (PWDA) is a leading disability rights, advocacy and representative organisation of and for all people with disability. We are the only national, cross-disability organisation - we represent the interests of people with all kinds of disability. We are a non-profit, non-government organisation.

PWDA's primary membership is made up of people with disability and organisations primarily constituted by people with disability. PWDA also has a large associate membership of other individuals and organisations committed to the disability rights movement.

We have a vision of a socially just, accessible, and inclusive community, in which the human rights, citizenship, contribution, potential and diversity of all people with disability are recognised, respected and celebrated. PWDA was founded in 1981, the International Year of Disabled Persons, to provide people with disability with a voice of our own.

Introduction

PWDA is informed by a robust understanding of the human rights of people with disability. We undertake substantial systemic advocacy in relation to the prevention of and response to violence against people with disability, including children with disability. This work is strongly informed by a human rights framework drawn from a range of Conventions to which Australia is a party, including the Convention on the Rights of Persons with Disabilities (CRPD).

A number of articles from the CRPD are of relevance to this submission. Article 7 embeds the right of children with disability to the equal fulfilment of their human rights, and the right to express their views about matters that affect them. Articles 15 and 16, enshrining the rights to freedom from torture or cruel, inhuman or degrading treatment or punishment, and to freedom from exploitation, violence and abuse, provide a framework for protecting children with disability against sexual abuse and other forms of violence. Perhaps most importantly for this submission, Article 24 recognises the right of people with disability to education on an equal basis with others.

This human rights framework means that our particular focus in commenting on the safety from sexual abuse of children with disability within the school system is how the failure to recognise and fulfil the rights of children with disability place them at a higher risk of experiencing violence, including sexual assault. This submission will focus on how the safety of children with disability in schools is impacted by:

- ableist attitudes (that is, attitudes which explicitly or implicitly privilege able-bodied people, and discriminate against people with disability);
- the inclusivity of education
- the availability of disability support
- the willingness of schools to provide reasonable adjustments
- schools facilitating their access to socialisation and community
- the availability of accessible respectful relationships and sexuality education

- the training and education of their teachers
- the existence of referral mechanisms
- oversight and reporting within schools, especially special schools and special streams in mainstream schools
- the use of ‘restrictive practices’ in school.

The issues paper is quite detailed, so this submission will explore how these key elements impact on the range of issues in question.

International research suggests that children with disability are at 2.9 times the risk of sexual violence, compared with their peers.¹ However, there is poor recognition of this heightened risk demonstrated within the education system. There are significant gaps between knowledge, policies and practice regarding preventing, reporting and responding to child sexual abuse against children with disability. Disability-specific policies, procedures and/or practices in schools must be developed to address the heightened risk of sexual abuse that children with disability face.

It is often claimed that children with disability are ‘more vulnerable’ to child sexual abuse because of their impairment. However, this is highly problematic: it victim-blames, and it also ignores the plethora of systemic issues which together put children with disability at higher risk. Many changes can be made in schools to make children with disability safe from child sexual abuse.

Perpetrators tend to target ‘vulnerable’ children – that is, children who are unlikely to disclose, who have few trusted adults around them, whose disclosure would be unlikely to be believed, and whose disclosure is unlikely to result in investigation and eventual conviction.² This means that the adequacy of supports and responses to disclosure for children with disability are a major concern, even though they may not be the focus of policies directed at ‘prevention’.

It is also important to note that many children and young people with disability are excluded from attendance at Australian schools, as discrimination is permitted where an adjustment to the school and its provision of education would constitute ‘unjustifiable hardship’ on the school.³ Effectively, this deprives many children with disability not only of access to education, but deprives them of access to the natural supports and protections of a school community.

¹ World Health Organisation, Violence against adults and children with disabilities factsheet, at: <http://www.who.int/disabilities/violence/en/> It is important to note that there are no accurate statistics regarding incidence or prevalence of violence against people with disability in Australia, let alone the subsets of sexual violence against children with disability.

² Quadara, A., Nagy, V., Higgins, D. & Siegel, N. 2015. Conceptualising the prevention of child sexual abuse: Final report (Research Report No. 33). Melbourne: Australian Institute of Family Studies, p. 3

³ *Disability Discrimination Act 1992*; see also *Disability Standards for Education*. 2005. Commonwealth of Australia.

Children with disability may thus be forced into receiving services in quite isolated and segregated settings, such as day services, which lack the community oversight that schools can provide. Additionally, the ‘ignored curriculum,’⁴ frequently a key factor in education about what constitutes sexual assault, acquired through inclusion and socialisation in mainstream social spaces is thereby denied to children and young people with disability.

Disability is generally poorly recognised and resourced in Australian schools, both in policies, procedures and practices designed to prevent, report and respond to risks and disclosures of child sexual abuse, and in more general policies. Additionally, disability supports may be strictly limited by funding and by recognition by disability support funders, whether state governments or the National Disability Insurance Scheme. This, combined with national policies which rarely if ever mention disability, and inadequate funding levels for ensuring inclusive education, leads to a lack of access to the necessary supports for children with disability attending schools. For further information, please see our submission to the recent Senate Inquiry into the current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of supports.⁵

Physical supports, communication supports, or behavioural supports all shape the inclusion of children with disability within schools. These supports, or their absence, affects relationships between children with disability and their peers, their relationships with teachers and other staff, their ability to understand their rights and the likelihood of them disclosing abuse. This in turn impacts perpetrators’ perceptions of them as vulnerable and as potential targets.

For example, if a child requires communication support, but is not provided with this, they may not be able to disclose abuse. Without communication support, their relationship with teachers or other adults in their lives may be impeded, entrenching further barriers to disclosure. Further, the communication support provided to this child may not include comprehensive coverage of violence, meaning that even if a child wanted to disclose, and trusted an adult, their alternative or augmentative communication device or strategy may not allow them to communicate this. This inadequacy can also reflect back on the child’s understanding of what constitutes abuse: if the communication support available does not include descriptions of violence, the child’s education in what constitutes violence is likely to be severely limited.

The lack of access to material supports has impacts for disclosure. Quadara details 8 key stages for the disclosure of sexual assault.⁶ Below is a table based on her disclosure framework, but amended to highlight where children with disability may face extra barriers.

⁴ Gougeon, N. A. 2009. ‘Sexuality Education for Students with Intellectual Disabilities, a Critical Pedagogical Approach: Outing the Ignored Curriculum’, *Sex Education*, 9, 277–291 <doi:10.1080/14681810903059094>.

⁵ PWDA Submission to the Senate Inquiry into the current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of supports. 2015.

http://www.pwd.org.au/documents/Submissions/LT170615_Senate_Ed_and_Emp_Comm_Education.doc

⁶ Quadara, A. 2008. Responding to young people disclosing sexual assault: A resource for schools. Australian Centre for the Study of Sexual Assault, no.6. http://www3.aifs.gov.au/acssa/pubs/wrap/acssa_wrap6.pdf
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

Stage	What is involved?	Factors for children with disability
Pre-disclosure	Recognition of the incident as wrong	Lack of education, implicit and explicit, that incident is wrong
	Seeking validation from others about this perception	Potential exclusion from social networks limiting validation
	Confusing and ambivalent feelings about the offender or the incident (for example love or concern for the offender)	Feelings may be exacerbated by heightened dependence for disability support from offender
	Confusion about consent and what constitutes consent	Confusion regarding consent exacerbated by everyday reality that children with disability are rarely given the opportunity to consent to what happens to their bodies (especially those with limited mobility)
	Behavioural changes: rather than directly disclose, students may engage in problematic (e.g., self-harm, substance abuse) or disruptive behaviours (e.g. "rebelliousness" against authority figures, especially male teachers, disengagement, truanting) (Alaggia, 2004)	Behavioural changes are likely to be ascribed to disability. They may then be either ignored or result in restrictive practices being implemented. Restrictive practices exacerbate the confusion regarding consent, and undermine any trusting relationship the child or young person may have with any authority figures
Overcoming barriers	Delaying disclosure is extremely common due to:	These barriers all exist for children and young people with disability, but are heightened:
	fear of disbelief,	fear of disbelief is likely to be accurate due to social belief that information provided by children and young people (and adults) with disability is not credible, that they are more likely to lie
	fear for one's safety,	fear for one's safety may be exacerbated due to reliance on perpetrator for disability support,
	lack of safe, confidential spaces to disclose,	lack of safe, confidential spaces to disclose may be heightened by continual presence of support staff (who may be perpetrators),
	lack of interpersonal or institutional support	lack of interpersonal or institutional support is exacerbated due to social segregation and a lack of awareness of the needs of children and young people with disability in disclosing

Stage	What is involved?	Factors for children with disability
First disclosure	Predominantly to friends	Social segregation of children and young people with disability is likely to impede this first disclosure
	Support and belief from significant others may be the difference between further telling or recanting	Sexual violence against children, young people and adults with disability is often greeted with disbelief due to social myths about them as innocent, and therefore, allegedly, not 'desirable' to perpetrators (which flies in the face of evidence that perpetrators target 'vulnerable' children)
Withdrawal/retraction	Young people may withdraw or retract what they have said as a result of negative reactions or fear of the consequences, particularly where the perpetrator is well-known to the survivor	As children and young people with disability are frequently dependent upon others for sometimes very intimate personal support, the fear of consequences that may put them at risk is often well-placed
Fragmentation	Disclosure may take place over time	For some children and young people with disability, particularly those with intellectual and psychosocial disability, such disclosures are likely to be even more highly fragmented due to the compounded impacts of trauma and disability
	A young person may disclose a less serious aspect of sexual assault in order to test the response of the confidante	In some circumstances, children and young people with disability may not have a good sense of whether the assault they experienced is in fact assault, nor of its seriousness or severity, due to a lack of education in these matters, and the general acceptance of other forms of behaviour towards them/with their body, without consent
Reaffirmation	Where a young person has withdrawn a disclosure, they may tell anew or reaffirm their initial revelation	For a child or young person with disability, the potential negative impacts of disclosure may have been demonstrated to have been too severe to enable them to disclose again (especially where restrictive practices have been the response to the trauma impacts they are experiencing)
Support-seeking strategies	Validation or confirmation about the nature of the event	Many children and young people with disability lack validation or confirmation about the event, due to the issues with belief and credibility outlined above

Stage	What is involved?	Factors for children with disability
	Emotional support	It is unclear how much disability-aware emotional support is provided to children and young people with disability; in many instances, sexual assault counselling is provided by practitioners who lack training in delivering services to people with disability
	Transfer of responsibility to help victim/survivor do something about the incident	The tendency to treat children and young people with disability as helpless and dependent can impede the transfer of responsibility, and can result in responses from support people which exacerbate rather than redress the sense of the loss of power or denial of rights
	The key support may not be from the criminal justice system	The criminal justice system is demonstrated to respond poorly to children and young people with disability; yet few other support services capable of delivering services to survivors with disability exist, especially for children and young people
Post-disclosure responses	Gossip and a chain reaction of telling can occur within school communities	Given the social myths about children and adults with disability tending to be less truthful, the impacts of gossip may be more far-reaching
	Support must extend to others. Non-offending caregivers and significant others may need treatment and intervention to help them support the victim/survivor (see Morrison, 2007)	For non-offending caregivers and significant others associated with a child or young person with disability, the need for support needs particularly to address the tendency to further segregate the survivor following an instance of violence against them
	Support post-disclosure is long term	This is especially important for children and young people with disability, because the trauma impacts on their behaviours are likely to be long-term, and may be dismissed as related to their disability by new support workers/services
	Emphasis on returning control to victim/survivors	This is especially important for children and young people with disability, who are frequently denied control over their own lives in any event – and the violence may thus be experienced as simply an extension of this

Topic A: General questions

1. How effective are the policies, procedures and/or practices schools have adopted to minimise or prevent, report and respond to risks and instances of child sexual abuse?

National policies recognise the key role played by schools in the prevention of sexual abuse in Australia.⁷ However, the National Safe Schools Framework, designed to ensure the safety of schools for students, does not contain any explicit mention of disability, and does not encompass strategies targeted at increasing the safety of children with disability within a school environment.⁸ Indeed, there is no acknowledgement that children with disability are at higher risk, or that this risk may be exacerbated by 'one size fits all' approaches to safety.

The current policies, procedures and practices implemented by schools to prevent, report and respond to risks and instances of child sexual abuse pay inadequate attention to human rights, despite the work of the Australian Human Rights Commission in this area.⁹ There are specific obligations created by the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities in relation to violence against children, including children with disability, yet they rarely appear in national policies or in legislation.¹⁰ In particular, the right of people with disability to be free from violence, abuse and neglect is not referenced in Australian legislation, nor in Australian education policies or frameworks.¹¹

As such, PWDA concurs with the recommendation made by Robinson and McGovern that 'national commitments to United Nations Conventions... need to be woven into policy and practice at state and local levels'.¹² This is particularly important because, as Robinson and McGovern identify, the key risk factors of abuse for children with disability arise from the failure to fulfil their human rights at a range of different levels. Implementing a human rights understanding at all levels of policy, procedure and practice is thus essential to ensuring the safety of children with disability.

⁷ Quadara, A. 2008.

⁸ National Safe Schools Framework. 2011. Ministerial Council on Education, Early Childhood Development and Youth Affairs (MCEECDYA), Australian Government Department of Education, Employment and Workplace Relations.

⁹ Australian Human Rights Commission, Violence, Harassment and Bullying website:
<https://bullying.humanrights.gov.au/>

¹⁰ Robinson, S. and McGovern, D. 2014. Safe at School? Exploring safety and harm of students with cognitive disability in and around school. Lismore, Centre for Children and Young People. Report completed for the NSW Law and Justice Foundation, p. 19
[http://www.lawfoundation.net.au/ljf/site/templates/Grants_Reports/\\$file/SCU_Safe_At_School_Final_2014.pdf](http://www.lawfoundation.net.au/ljf/site/templates/Grants_Reports/$file/SCU_Safe_At_School_Final_2014.pdf)

¹¹ Robinson, S. and McGovern, D. 2014.

¹² Robinson, S. and McGovern, D. 2014, p. 12

Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

The Disability Standards for Education outlines the obligations of all education providers – including government and privately run schools in all states/territories of Australia.¹³ Yet it is not referenced in the National Standards for Safer Schools, meaning that the inclusion of children with disability is excluded from considerations of student safety. Additionally, the National Framework for Protecting Australia’s Children engages comparatively minimally with disability,¹⁴ meaning that none of the policy frameworks relevant to protecting children from violence actually consider the specific needs of children with disability. This means that the risk of sexual abuse of children with disability ‘falls in the gaps’ between the National Safe Schools Framework, the National Framework for Protecting Australia’s Children, and the Disability Standards for Education, leaving this cohort with minimal protections.

However, Robinson and McGovern found that although there were significant state and national policy guides and resources available to school personnel regarding the protection and response to children with disability, this material was scarcely used, nor informed practices within school settings. Instead, school personnel used locally developed policies and procedures to deal with allegations of abuse, which Robinson and McGovern suggest impacts on likelihood of practice to fulfil human rights.¹⁵ Additionally, ‘while stakeholders had awareness of policies, a number identified a gap in bringing policies together into a coherent whole,’ especially with regard to children and young people with disability.¹⁶

Furthermore, the existence of policies and procedures doesn’t guarantee that all schools view abuse as abuse, as they may not frame it as something that requires criminal or legal intervention. Instances of sexual assault or inappropriate touching might be considered to be just that – instances – which can be dealt with by the school personnel internally.¹⁷ In addition to this, stereotypes about the reliability of children, and children with intellectual disability in particular, often influence the decision of school staff about whether to report these assaults. As such, the school may not support individuals to take action. They may also not support a child’s engagement with the Police, which for children with disability is less than ideal.¹⁸

A young girl with disability was seriously injured while attending an out of school hours care service which was registered by the Department of Education. Her mother took her to the hospital, where Child Protection was called (as the medical staff assumed the mother had injured her daughter).

¹³ National Disability Standards for Education. 2005. Commonwealth of Australia.

<http://www.ag.gov.au/RightsAndProtections/HumanRights/DisabilityStandards/Pages/Disabilitystandardsforeducation.aspx>

¹⁴ Council of Australian Governments. 2009. Protecting Children is Everyone’s Business: National Framework for Protecting Australia’s Children 2009–2020, Commonwealth of Australia.

¹⁵ Robinson, S. and McGovern, D. 2014, p. 12

¹⁶ Robinson, S. and McGovern, D. 2014, p. 10

¹⁷ ‘School handled abuse inquiry itself: inquiry’ Feb. 17 2014, *The Brisbane Times*

<http://www.brisbanetimes.com.au/queensland/school-handled-abuse-complaint-itself-inquiry-20140217-32ve8.html>

¹⁸ See our previous submission to the Royal Commission into Institutional Responses to Child Sexual Abuse Police and Prosecutorial Responses issues paper.

Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

The girl's mother spent a significant amount of time trying to get the Department of Education and the Police to investigate the out of school hours care facility, to no avail, as each government body claimed that the other had jurisdiction.

As this case demonstrates, some instances of violence, abuse and neglect are shuffled around between various entities, with no justice and no positive outcome for the person who experienced this abuse, nor for any other child who may also experience abuse in this setting.

This demonstrates the need for better integration of policies, frameworks and practices, especially between disability, child protection, education and so on.¹⁹

3. What are the particular strengths, protective factors, risks or vulnerabilities and challenges faced by schools within different education systems in preventing, identifying, reporting and responding to child sexual abuse? Is there any rationale for having different legislative obligations and policy requirements relating to child protection for government and nongovernment schools?

All schools should implement a whole-of-school approach to addressing child sexual abuse, as creating and maintaining a safe school environment requires input from everyone, including staff, parents, students and the broader community. Part of this should involve explicit guidance around an inclusive educational setting, information about the heightened risk of sexual abuse that children with disability face, and explicit guidance about the needs of children with disability.

Currently, there are no national guidelines nor framework for evaluating how inclusive education is. Therefore, some schools create environments they believe to be inclusive, but which in reality deprive children with disability of access to education, and to socialisation with their peers. No guidance is provided to assist schools in considering what might be possible in ensuring its policies, practices and environment are as inclusive and accessible as possible.

The limitations on disability discrimination – regarding adjustments which would involve ‘unjustifiable hardship’ for the school – must be changed to ensure that children with disability have equal access to education, and the mainstream community. Their exclusion from some schools leads to uneven outcomes for children with disability across Australia, and is likely to impact on their safety in different schools. The inclusivity of education settings should thus be a key performance indicator of school safety.

Children with disability who attend special schools, or participate in ‘special education classes’ within a mainstream school setting are thereby placed at higher risk of violence, abuse and neglect. Special schools and special streams within mainstream schools can, and often do, segregate and isolate children with disability from the wider society.

¹⁹ Robinson, S. and McGovern, D. 2014, p. 11
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

Specialist settings can have a number of negative impacts on child safety, creating precarious and unsafe situations. For instance, segregated settings limit the number of people that children with disability come into contact with, limiting community oversight of the policies and everyday practices of these institutions. They can also make children with disability over-reliant on staff members in relation to reporting experiences of violence, abuse and neglect. In some cases, special schools are also boarding schools, frequently in regional areas, exacerbating the child's reliance on school and staff for access to the rest of their community. Additionally, isolated settings can foster behaviours that would be deemed unacceptable by mainstream organisations and the wider community, normalising them for staff, students, family members and others.

Furthermore, because children with disability receiving education in special schools are rarely monitored in the same way as their peers, it can be difficult to know the outcomes for these schools. Oftentimes, they are not required to participate in National Assessment Programs,²⁰ and it remains unclear how special schools implement inclusive practice and curriculum. In many schools in Queensland, including special schools, children with disability are denied any sexual education seemingly due to a fear that this would mean teachers and the school fall foul of the criminal code regarding solicitation.²¹

4. Do the nine elements of the 2009 National Safe Schools Framework effectively make schools safer for students? Are there any additional elements schools should adopt?

The National Safe Schools Framework²² describes safe and supportive school environments as valuing diversity, and being respectful and inclusive of everyone. However, the nine elements of the Framework do not include any explicit mention of disability within school environments.

There is also no mention of disability within the sub-categories that expand upon the nine elements of the Framework. Although subcategory 2.8 outlines the importance of recognising the 'distinctive needs of specific groups in the school community (e.g. Aboriginal and Torres Strait Islander communities)', there is no mention of children, staff, family members or members of the broader school community with disability.

Similarly, positive behaviour management is obviously particularly important for ensuring that the human rights of children are fulfilled at school. This is especially the case where 'challenging behaviours' which require positive behaviour management are the result of trauma impacts. Yet this subcategory of the Framework does not currently provide guidance around disability. This has led to very inappropriate 'behaviour management' techniques being used, including fencing off sections of a playground to cage children with disability, damaging their relationships with their peers.²³

²⁰ (<http://www.nap.edu.au/naplan/school-support/student-participation.html>)

²¹ Confidential conversation with Queensland disability advocate.

²² National Safe Schools Framework. 2011.

²³ Disability Representative Advocacy Legal and Human Rights Organisations. 2012. Civil Society Report to the United Nation on the Rights of Persons with Disabilities, p. 96
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

This reflects an ongoing problem for children with disability in educational settings. In many states, 'protecting against harm to self or others' is frequently used to justify a range of responses to 'challenging behaviours' which are inappropriate and not fit for purpose, as well as constituting a breach of human rights.²⁴ Not only is this inappropriate as a response to trauma impacts and/or the attempt to communicate or even disclose, it can do more damage to the child's inclusion in the school and their trust of their teachers and care-givers.²⁵ Indeed, increasing evidence demonstrates that 'time-out' and other similar exclusions/temporary ostracisms have severe impacts on attachment and brain development.²⁶ This can compound developmental delays and/or other impairments.

The Framework indicates that student safety and wellbeing is improved when students feel connected to the school, to peers and to teachers, and have positive relationships within the school environment. However, Robinson and McGovern highlight that children with disability are not always supported to have positive relationships at school. They state that these relationships are not always allowed, as sometimes the needs and responsibilities of teachers get in the way of what children with disability want, such as making friends and engaging positively with their peers.²⁷

The needs of children with disability should be explicitly included in the National Safe Schools Framework, to address the increased risk of violence that children with disability experience. Additionally, the Framework has an unclear application to special schools. As previously mentioned, special schools place children with disability at a particular risk of violence, due to their segregation and isolation from the rest of the community. It is important that all requirements of other schools extend to these specialist education settings.

5. What regulatory, oversight or governance mechanisms are needed to ensure schools have adopted 'safe school' elements? How has their effectiveness been evaluated?

There is a real need to establish a mechanism to ensure all students of all kinds of schools are attending 'safe schools,' together with an evaluation framework that examines the effectiveness of schools in creating safety, especially for children who are at higher risk of violence (children with disability, children from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander children, and LGBTIQ children).

PWDA recently recommended to the Senate Community References Committee Inquiry into Violence, Abuse and Neglect against People with Disability in Institutional and Residential Settings the creation of a national watchdog for the investigation, protection and enforcement of findings in relation to the rights of people with disability, including children

²⁴ Disability Representative Advocacy Legal and Human Rights Organisations. 2012. P. 96

²⁵ Ramcharan, P et al. 2009.

²⁶ Siegal, D. J., and Bryson, T. P. "Time-Outs" are hurting your child' *Time*, 23 Sept. 2014.

<http://time.com/3404701/discipline-time-out-is-not-good/>

²⁷ Robinson, S. and McGovern, D. 2014.

Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

and young people.²⁸ This body would have jurisdiction across all service settings, with own-motion investigative powers, enforcing the rights of people with disability, including the rights of children with disability to safety from sexual abuse.

A proposal that may be worth consideration is the requirement to make the safety of children within schools as serious a responsibility as Workplace/Occupational Health and Safety (WHS/OHS). The regulatory mechanisms around WHS/OHS are substantial, and come with severe penalties for organisations and responsible individuals. This provides ample incentives for both government-run and private school settings to develop and implement robust 'safe school' policies and practices.

Essentially, however, any instance of child abuse, including child sexual abuse, should be treated as evidence of the failures of policies and procedures designed to keep children safe, and an opportunity to alter these policies and procedures to be more effective.

Topic B: Governance and leadership

- 1. How could school governance arrangements be strengthened to provide better protection for children? What should be the role of: students, staff, principals, school councils or boards, governing bodies and education departments in reviewing current safety arrangements, incidents, decision-making and promoting child safety within individual schools?**

Governance arrangements must be strengthened, ensuring diversity from the top down through the hierarchy within the school. People with disability should be represented on governance bodies, and should be represented amongst the staff.

Governance arrangements should ensure the voices of all children are heard. Too often student involvement, including consultation with students, is limited to student representative councils, which tend to reflect those children and young people who are displaying leadership qualities and/or are most popular with their peers.²⁹ These are unlikely to ensure the inclusion of the voices of children who are less well included in school communities – and it is these children who are at higher risk. Their experiences of exclusion, of a lack of support and of the failures to ensure adequate education, must be heard and addressed, to ensure that all children are safe.

Robust consultation mechanisms should be developed to ensure that all children are heard in the processes of reviewing safety arrangements, considering elements of incidents, in decision-making, and promoting child safety within individual schools.

²⁸ Frohmader, C., & Sands, T. (2015) Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings'. Australian Cross Disability Alliance (ACDA); Sydney, Australia,
http://www.pwd.org.au/documents/Submissions/ACDA_Sub_Sen_Inquiry_Violence_Institutions.pdf

²⁹ Hine, G. 2012. 'Exploring the need for improvement in a student leadership program', *Journal of Catholic School Studies*, 84(1):12-22.

http://researchonline.nd.edu.au/cgi/viewcontent.cgi?article=1096&context=edu_article
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

2. What governance arrangements should be in place to ensure that teaching and non-teaching staff and other members of school communities have the support and confidence to identify and report suspected child sexual abuse without fear of negative repercussions for themselves or their careers?

Whistleblower protections are particularly important for children with disability. As discussed above, children and young people with disability experience numerous barriers in disclosing sexual and other violence they may have experienced. In many instances, this means that it is more important that school staff and other members of school communities feel able to report suspected child sexual abuse.

However, there is an important element of education required here: staff and other members of school communities must be able to recognise the impacts of trauma on children, including on children with disability. The lack of awareness about what trauma impacts look like can lead to children being designated as ‘naughty’ or ‘delinquent’.³⁰ Additionally, children with disability may have their impairment blamed for their behaviour, which can conceal trauma.

In other words, identifying sexual abuse can be difficult, especially as it is experienced by survivors with disability. This means that the entire school community must become ‘trauma-informed’ and ‘disability-aware.’ Small changes, like including a column in the school newsletter about violence and its impacts, could go a long way to addressing some of these difficulties.

Topic C: Protection and support services for children and specific student populations

1. What needs to be taken into account to ensure that the full diversity of students are equally protected and equipped to voice concerns? Are the needs of children with particular vulnerabilities, such as children with disability, adequately addressed?

Research involving school personnel and external stakeholders has highlighted that there are ‘few resources (financial, collaborative and cultural) they felt able to draw on to best support students with cognitive disability, particularly in mainstream schools.’³¹ This impacts, obviously, on the education that children with disability receive. Of particular concern, however, is the impact of these problems on preventative education, as it currently exists in mainstream schools.

It is worth noting, as mentioned above, that children with disability who are in special schools, or in specialist streams within mainstream schools, may receive no education regarding sexuality, their own bodies, what constitutes consent, what respectful

³⁰ Adults Surviving of Child Abuse, Best Practice Guidelines <http://www.asca.org.au/Health-Professionals/Practice/Best-practice-guidelines.aspx>

³¹ Robinson, S. and McGovern, D. 2014, p. 9

Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

relationships look like, and what constitutes sexual abuse, at all.³² In addition, much of the sex education provided to other students occurs in the physical education stream; many children, especially those with physical disability, are excused from this entire stream.³³ This can mean that children with disability receive no education that would assist them in making a disclosure.

In many instances, even where children with disability are included in mainstream schooling, the education is not made accessible for them. This can mean that even if sex education and preventative education is provided, it is of limited or no benefit for children with disability, impeding their recognition of sexual abuse, and their capacity to disclose.

As noted in Table 1 above, the supports required by children with disability to enable disclosure are many and varied. They may include communication supports, such as using assisted or augmentative communication devices. Such communication supports must include robust strategies for describing and disclosing abuse with a variety of community members. If only one person is trained in using the communication strategy, this can render children using such devices or strategies over-dependent on a particular individual, making it difficult to report if that person is or is associated with the perpetrator. This is one example of how disability support funding (such as provided by the National Disability Insurance Scheme) has impacts on the safety of children in a variety of settings, and must be a consideration in the development of funding plans.

Additionally, communication supports, and assisted, alternative or augmentative communication devices must include strategies for communicating emotional states. This is sometimes neglected, leaving children with disability restricted in what they can tell others about. This can also impact on therapeutic treatment.

However, in addition to providing supports, school staff need to be trained to recognise the various ways in which trauma manifests. They must be aware of the nonverbal signs of child sexual abuse, such as children acting out sexual behaviour with toys or other children, washing themselves obsessively, hurting themselves, or demonstrating increased levels of anxiety, aggression, or sadness, or withdrawing.³⁴

Often, children with disability who have been abused will demonstrate ‘challenging behaviours,’ especially if they are non-verbal. Schools must recognise that these behaviours are not just the child acting out, nor a consequence of their impairment. They must investigate potential trauma or abuse that the child has experienced. Unfortunately, the current lack of awareness means that for children with disability, ‘restrictive practices’ – restraining children physically or chemically, or segregating them from others – are frequently used as a response to deal with these behaviours. Not only do these practices not

³² Gougeon, N. A. 2009. ‘Sexuality Education for Students with Intellectual Disabilities, a Critical Pedagogical Approach: Outing the Ignored Curriculum’, *Sex Education*, 9, 277–291 <doi:10.1080/14681810903059094>

³³ Vincent, K. 2015. ‘Disability Justice Plans in South Australia,’ presentation at Child Sexual Assault, Disability and Justice System Responses Forum, Canberra.

³⁴ South Eastern Centre Against Sexual Assault, 2015. Trauma responses in children, <http://www.secasa.com.au/assets/Documents/trauma-responses-in-children.pdf>
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

fulfil the human rights of children, they frequently worsen these behaviours, re-traumatise children, compound trauma, and can damage any relationship of trust with a school staff member, impeding disclosure.³⁵

Additionally, the use of restrictive practices in schools can also influence the cultures of that organisation, leading to the normalisation of these inappropriate practices. The use of restricted practices and the acceptance of these inappropriate actions create a very dangerous setting for children with disability. Indeed, it has been shown that within schools, ‘the attitudes and values of teachers, support staff and school leaders are also critical in establishing and sustaining a culture amongst students which values students with cognitive disability, [and] upholds their equal right to safety.’³⁶ As such, if staff members are complicit in the use of restricted practices, the culture of the school and the value placed upon children with disability will suffer.

Restrictive practices are subject to limited regulation in the education sector, if any. For instance, while the use of restrictive practices in disability services is subject to examination and authorisation processes in most states, a school teacher who believes that a student was threatening to harm themselves or others could implement restrictive practices without repercussions. Indeed, the recent instances of the child caged in a school in Canberra demonstrated that the experiences of children with disability may be easily dismissed, and that whistleblowers are forced to push complaints to the highest levels are required before intervention occurs, putting their own roles at risk.³⁷

2. What support services should schools provide for victims and others affected by child sexual abuse, either directly or through referral to external providers? Are schools able to ensure these services are provided and, if not, why not?

Child sexual abuse is a huge issue – one that cannot be dealt with by one sector singlehandedly. Indeed, some of the problems faced by children with disability in schools result from a lack of integration of different kinds of support services. Ensuring an adequate response to child sexual assault requires the cooperation of all school-based entities – the board, school personnel, families and wider community based actors such as advocates, child protective services, sexual assault services, disability services and organisations.

Schools should establish and maintain close working relationships with these local organisations so that their expertise can be drawn on in a variety of contexts. For instance, the school could invite representatives from sexual assault services, and disability advocacy organisations, to come and speak to the school on inherent sexual and human rights, respectful relationships and how to recognise and respond to abuse.

³⁵ Ramcharan, P, Nankervis, K, Strong, M and Robertson, A (2009) ‘Experiences of Restrictive Practices: A view from people with disabilities and family carers: A final research report to the Office of the Senior Practitioner’ Office of the Senior Practitioner, Victoria, pp. 1-3.

³⁶ Robinson, S. and McGovern, D. 2014, p. 68

³⁷ ‘Delays in investigation into Canberra boy locked in school cage angers parents,’ 17 June, 2015 *ABC News* <http://www.abc.net.au/news/2015-06-17/parent-criticises-lack-of-information-on-canberra-cage-boy-inve/6552066>

In our experience, there has been limited numbers of referrals made by schools to disability advocacy organisations or service providers. There is a tendency to avoid calling external providers, instead implementing ‘in house’ solutions. Unfortunately, these ‘solutions’ often involve the utilisation of restricted practices, or other inappropriate strategies, which have severe effects on children with disability and their inclusion in the school community, and increases their risk of being sexually abused.

However, schools should be an excellent referral point, as they engage with both children and their parents in an ongoing manner and are in a position to observe changes in the behaviour of children over time.³⁸ School personnel should be encouraged to reach out for disability expertise, to engage with local organisations and to refer students to appropriate services where required. The school should also ensure that the child has access to an appropriate counsellor, taking preferences for gender and location, as well as any communication needs into consideration.

They should, in particular, ensure that children with disability are referred to advocacy organisations, who can facilitate positive engagements with other support services, including counselling and child protection. Without advocacy to assist in interfacing with them, counselling services may not offer the flexibility and responsiveness that children with disability need.

3. What measures should boarding schools take to ensure that students are and feel safe? Are particular measures needed for boarding schools catering to specific populations such as Aboriginal and Torres Strait Islander students, international students, or students in regional and remote areas? Will the draft National Boarding Standards for Australian Schools provide boarding students with stronger protection against child sexual abuse?

For children with disability, attending boarding schools can duplicate some of the historical concerns regarding specialist disability institutions: that through segregation, they render children with disability vulnerable to sexual abuse.



Similarly, boarding schools for children with disability are frequently located in regional or remote areas, and have limited engagement with and oversight from the broader

³⁸ Scholes, L., Jones, C., Stieler-Hunt, C., Rolfe, B., and Pozzebon, K. 2012. The Teachers’ Role in Child Sexual Abuse Prevention Programs: Implications for Teacher Education. Australian Journal of Teacher Education, 37(11), p. 108 <http://ro.ecu.edu.au/cgi/viewcontent.cgi?article=1859&context=ajte>
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

community. Additionally, attending these schools can strip students of their natural supports.

The National Boarding Standards for Australian Schools are not available free to the public; and it remains unclear whether special boarding schools are expected to use them. This lacks transparency, and leaves families and other stakeholders with limited understanding of what standards their children's schools ought to be performing to. Additionally, there is no information available on the website of the Australian Boarding Schools Association regarding who they consulted with in the development of these Standards.

4. Do factors such as geographical isolation, distance from policy makers, and staff and student retention affect regional and remote schools' abilities to prevent and respond to child sexual abuse? If so, how might they be addressed?

The geographical location of schools influences the prevention and response to child sexual abuse. Indeed, as previously mentioned, children with disability have often been moved outside of cities to institutions, schools and services located in remote, regional areas. This removes children from their natural support networks, and makes them more vulnerable to abuse due to the limited community oversight available in such remote regions.

In these regions, schools may also struggle to contact sexual assault services, disability services and advocacy organisations where required. As such, regional schools and services need to be innovative and flexible when attempting to establish relationships with other services.³⁹ The collaboration within the community is important, ensuring that the students have access to appropriate support. The establishment of positive working relationships is especially important in these areas, as there may not be as many services or supports available.⁴⁰

Chloe is ten year old girl living in a small regional town. She has attention deficit hyperactivity disorder (ADHD), oppositional defiant disorder (ODD) and anxiety.

Chloe was attending a mainstream primary school in her local area. This school had a room purpose built for Chloe which they would put her in when she would act out. This purpose built area was a walled off section of a room, with Perspex windows.

Chloe was made to remove her shoes before entering the room. There was no furniture in the room, nor any resources or activities to keep Chloe amused. Chloe was put in this room on a daily basis for hours on end.

Her mother was concerned by the use of the room, and contacted an advocate for assistance. They in turn contacted the Department of Education, who came out to assess the room. However, they reported that the room fit within their policies and guidelines. As

³⁹ Wall, L and Stathopoulos, M. 2012, p. 10

⁴⁰ Robinson, S. and McGovern, D. 2014, p. 69; and Wall, L. and Stathopoulos, M. 2012. 'A snapshot of how local context affects sexual assault service provision in regional, rural and remote Australia'. Australian Centre for the Study of Sexual Assault. 13, 2012, p. 10 <http://www3.aifs.gov.au/acssa/pubs/wrap/wrap13/w13.pdf>
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

such, the police were not contacted, as the Department of Education deemed the room appropriate to continue using.

Chloe's mother pulled Chloe out of this school. She had a lot of trouble enrolling Chloe in another school, as the town was quite small, and word had got around that Chloe was a problem student. After one year of advocating for Chloe's human right to education, a school finally agreed to enrol her. Nonetheless, Chloe still suffers in education as a result of her previous experiences.

5. What sorts of measures are needed to help protect younger children from the risk of sexual abuse by older children?

In order to protect children with disability from sexual abuse by their peers, *all* school children need to have access to appropriate, accessible and adequate sex education. Currently, a significant number of children with disability are not provided with adequate education regarding sex, sexuality or respectful relationships. As a result, they may not have a good understanding of what an appropriate relationships looks like, feels like and entails. This often leaves children with disability unaware of what constitutes sexual abuse, either as perpetrators or survivors, or both.

There are few sex education packages developed specifically for children with disability. For the most part, there is limited resourcing for the delivery of these packages, and they are usually accessed through disability services rather than schools.

Missing out on formal and informal types of sex education can lead to children with disability acting out in sexual ways with other children, as this may appear to be a less socially risky way for them to explore their feelings and desires. Without adequate support around sex education, however, this can result in these individuals becoming 'accidental' perpetrators, or displaying problem sexual behaviours. This is particularly the case for those who have been victimised as children.

Support needs to be provided for those children with disability displaying problem sexual behaviours. Although there are some programs working with children with disability in this situation, including the program run by South Eastern Centre Against Sexual Assault in Victoria, but there is limited evaluation of their efficacy for children with disability. This information must be made public, to facilitate access to the services where needed.

In particular, the biopsychosocial model adopted by only some programs is important for ensuring the needs of children with disability are recognised. Examining and responding to the context a child is living in ensures that they are not automatically blamed for a lack of understanding, and can help maintain the child's social networks, including school-based networks throughout the process.

Topic E: Education, training, professional support and primary prevention

1. What obligations should schools have to ensure that their teaching and non-teaching staff are aware of and comply with applicable codes of conduct, professional standards or child protection policies?

There are a number of policies, guidelines and procedures aimed at ensuring teaching staff are able to appropriately respond to child sexual abuse, and ensure the inclusion of children with disability, but these vary across states and may or may not be used in particular schools.

The Australian Professional Standards for Teachers, for instance, provides national benchmarks for teaching on how to encourage the full participation of students of varying abilities, how to maintain the safety of students, and how to comply with legislation, for example.⁴¹ However, it includes only a particular standard focused on children with disability (standard 1.6), rather than including an awareness of the needs of students with disability throughout the document. Additionally, standard 1.6 is driven by the need to adhere to ‘legislative and policy requirements,’ rather than being focused on the specific educational and inclusion needs of students with disability. This is likely to mean that teachers have very limited understanding of the increased risk of sexual abuse that children with disability face, and of strategies for mitigating that risk, including increasing the inclusion of a child with disability in the school community.

Bus and taxi drivers should also be provided with support and training to be able to assist students with disability, and to abide by appropriate policies and codes of conduct.⁴² There have been numerous instances of transport providers targeting children with disability for sexual abuse. This training therefore must be rigorous, and oversight of transport providers made more robust.

2. What role does teacher education, training and professional support (including university study, pre and in-service training, and mentoring/support), play in equipping individual teachers with skills and confidence to identify behaviours indicative of, and to appropriately respond to risks or incidents of, child sexual abuse, and to children displaying problem sexual behaviour?

Education, training and professional support is an important element of ensuring child safety. In a recent study, 76.6 per cent of tertiary teacher education programs did not include any child protection content.⁴³

School personnel should be trained about how to recognise the signs of child sexual abuse, how to positively respond to disclosure and how to enable children to get assistance. Additionally, staff must be trained in the delivery of violence prevention curriculum: ‘the

⁴¹ Robinson, S. and McGovern, D. 2014, p. 30

⁴² Robinson, S. and McGovern, D. 2014, p. 10

⁴³ Arnold, L. and Maio-Taddeo, C. 2007. Professionals Protecting Children: Child Protection and Teacher Education in Australia. Australian Centre for Child Protection: Adelaide
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

significant role of teachers is increasingly being recognised, with an understanding that educators' participation is crucial to the success of any school based prevention initiative.'⁴⁴

School staff should also be trained in how to respond to trauma, and how to appropriately support students who are experiencing trauma related behaviours. Teachers have a huge role to play in terms of ensuring the protection and safety of their students, and require support to do so: 'Teachers are best placed to meet these responsibilities when knowing their reporting duties, understanding the indicators of child sexual abuse, and having positive attitudes towards the reporting duty.'⁴⁵ Schools should establish safe spaces for students to get support, and should encourage staff members to participate in training regarding respectful relationships and responding to sexual assault.⁴⁶

Such training should also be designed to enable school personnel to be responsive to the needs and concerns of students with disability, and knowledgeable of their heightened risks and their causes.⁴⁷ Teachers also need to be trained in how to engage with disability, and should be provided with strategies for engaging with children with disability. As disability is often poorly recognised, children with disability may not have the supports they need to disclose. Teachers must be empowered to seek supports for children with disability where needed, well in advance of any potential disclosure.

However, training of teachers should be an ongoing matter, not a once-off, and certainly not solely covered in university education. 'An important finding of this study is that even for those teachers who had received in-service training related to child abuse and neglect... its average duration is low.'⁴⁸ Repeat engagement with training in this area is a must.

Professional support is an important element of any plan to address child safety. Leadership staff need to support other school personnel to comply with standards and policies. Teachers need to be supported to develop best practice in relation to responding to/reporting child sexual abuse.⁴⁹ It is also worthwhile noting that:

the compulsory online training module on the Disability Standards in Education recently rolled out to all NSW teachers, and the new Safe Schools Hub are positive and welcome initiatives in promoting awareness of the rights of students, and strategies to support classroom practice. However, neither of these initiatives contain a mechanism to identify and intervene where teacher practice is less than optimal, or worse, negative or abusive to students with disability.⁵⁰

⁴⁴ Scholes, L. et.al., 2012, p. 104

⁴⁵ Mathews, B. 2011. Teacher Education to Meet the Challenges Posed by Child Sexual Abuse, Australian Journal of Teacher Education, 36(11), p. 17
<http://ro.ecu.edu.au/cgi/viewcontent.cgi?article=1716&context=ajte>

⁴⁶ Quadara, A. 2008, p. 7

⁴⁷ Robinson, S. and McGovern, D. 2014.

⁴⁸ Mathews, B. 2011, p. 24

⁴⁹ Scholes, L. et.al., 2012, p. 117

⁵⁰ Robinson, S. and McGovern, D. 2014, p. 68

A collaborative approach, driven from the top-down, and with a mentoring scheme to assist staff in developing their awareness in these areas could be useful.

However, it is important that child safety is not relegated to the occasional training module, but becomes an integral part of the everyday culture of the school:

The creation of a safe school culture was viewed as critical by most key stakeholders interviewed. Whole of school positive behaviour support, engagement from the principal through all levels of the school in inclusion building activities, and the promotion of a culture in which diversity was acknowledged and respected were viewed by interviewees as core components of positive school cultures which were safety promoting.⁵¹

Ensuring the inclusion of children with disability, then, is key to safeguarding them at school, so it requires a holistic approach. Research shows that teachers often struggle to meet the needs of students with disability, due to the increasingly high standards they are expected to meet, and the decreasing supports and resources available to them.⁵² On top of this, teachers have expressed how difficult they find working with children with disability when they have had little or no training to do so.⁵³

3. What should school systems do to ensure their schools consistently deliver effective sexual abuse prevention education? Do such programs address barriers to children disclosing abuse, including the specific needs of children with disability, with English as a second language or with other particular vulnerabilities?

Current sexual abuse prevention education programs are often imported from overseas, and 'are not adequately evaluated or adapted for Australian contexts.'⁵⁴ However, the 'Sex and Ethics' course designed by Professor Moira Carmody of Western Sydney University, is an exemplary and well-evaluated product, primarily designed for teens.⁵⁵ It is heartening that the development of the National Framework for the Prevention of Violence Against Women and their Children has appeared robustly intersectional in its draft form, potentially providing guidance regarding prevention programs, and how to ensure that they are accessible and inclusive of children with disability.

Sexual abuse prevention education must be accessible for all students. As such, it must be student-body-wide, and must not be taught in physical education classes, from which people with disability may be excluded. It must also be responsive to the needs of all children within the class, ensuring that all receive the education in a mode which suits their learning strategies.

⁵¹ Robinson, S. and McGovern, D. 2014, p. 10

⁵² Robinson, S. and McGovern, D. 2014, p. 11

⁵³ Robinson, S. and McGovern, D. 2014, p. 47

⁵⁴ Scholes, L. et.al., 2012, p. 105

⁵⁵ Details of the program, its evaluation and so on, can be found here: <http://www.sexandethics.net/>
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

Sexual abuse prevention education should be developmentally appropriate, utilise capacity-specific resources and consider how children acquire knowledge in different ways. These techniques and strategies must be accessible, and could include the use of videos, puppets, books, picture books, songs, role playing or group discussions. Research has shown that active participation and behavioural skills training are the most effective as they facilitate a longer retention of knowledge.⁵⁶

Sexual abuse prevention education must be robust, accessible and developmentally appropriate. It must include a clear understanding of sexual abuse, of concepts like consent, and of how to negotiate privacy and safety in the context of receiving intimate care. It must teach children the proper names for body parts. This educational program must also provide names and explanations for a variety of both positive and problematic sexual behaviours, and explain good and bad touching.

The program should also encourage disclosure, to parents, teachers or other trusted adults, and must emphasise that it is never the child's fault for experiencing sexual abuse. Additionally, providing children with an outline of how parents, teachers and others should respond to a disclosure can assist children in developing the confidence they need to disclose, and can empower children to disclose multiple times if the initial response is less than ideal. It is also important to emphasise that they will be protected against repercussions from a perpetrator.

PWDA emphasises the sexual and human rights of all people with disability. Part of what makes children with disability more vulnerable to sexual abuse is that sexuality is treated as irrelevant to them altogether, denying them any kind of sexuality or desire. Their capacity to distinguish between consensual, positive sexual experiences and abusive, negative sexual experiences, is thus undermined. As such, any sexual abuse prevention education must also be sex-positive.

This education should not just be a one-off program, but rather should be regularly returned to and embedded as part of the school curriculum. Any type of intervention or prevention program should be meaningful and sustained, repeated to facilitate increased retention rates of information that aims to protect children with disability from child sexual abuse. Importantly, sex education must be required of special schools, and must be implemented across the nation. Currently, there are some concerns in Queensland, where special education providers are fearful of providing sex education to children with disability as they don't want to fall foul of state solicitation laws. This must be addressed, and people with disability across Australia must have access to the same rigorous education about sex, sexuality and relationships.

These programs must not be undermined by the use of restrictive practices. These practices cannot exist alongside an educational program which teaches children about consent, appropriate touching and appropriate relationships, as the use of restrictive practices would

⁵⁶ Sanderson, J. 2004. 'Child-focused sexual abuse prevention programs: How effective are they in preventing child abuse?' Crime and Misconduct Commission Queensland, no. 4, p. 3
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

undermine these messages, and indicate to children that people with authority have the ability to treat others inappropriately.

Topic F: Reporting, information sharing, complaints and investigations

- 1. What barriers or fears might discourage or prevent individuals working in or with schools from reporting suspected child sexual abuse (whether the abuse is perpetrated by colleagues, volunteers, other students, other members of the school community or family members)? How could those barriers be addressed?**

There are a number of barriers to reporting suspected sexual abuse in schools. In many instances, there are hierarchies within schools which can discourage individuals from raising problems. This may be particularly the case for temporary or part-time support workers who assist children and young people with disability, given that they may be perceived to be less integrated into the school community.

These kinds of hierarchies are also very likely to affect students seeking to report suspected child sexual abuse, for example of or by their peers. For children with disability, these dynamics may be exacerbated, especially if they are not fully included in the school community. They may fear bullying by their peers, or repercussions from teachers and other staff who may be more likely to assume they are lying (given the myths regarding the credibility of people with disability more generally).

Solutions to these dynamics are to flatten hierarchies within the school. Creating collaborations between teaching and non-teaching staff, as suggested above, in learning about and implementing protections for children are likely to be useful. Additionally, creating feedback mechanisms where all children within the school are given a voice in how the school is run is likely to ensure better inclusion, and a trust on the part of children that their concerns will be heard and acted on.

As highlighted above, the inclusion of marginalised children and their families in the school community – including children with disability, Aboriginal and Torres Strait Islander children, children from diverse cultural and linguistic backgrounds, and LGBTIQ children, as well as those with intersectional identities – is key to ensuring that all members of the community feel able to report suspected child sexual abuse.

- 2. How effective are mandatory reporting and reportable conduct schemes in assisting to identify and report child sexual abuse in schools? If necessary, how might these schemes be refined to better suit school environments?**

These schemes may be important for many children, and in some cases can be understood to remove responsibility for disclosure from the child. Additionally, ensuring that a broad range of violent or abusive conduct is reportable would assist, given that sexual abuse is frequently associated with other forms of violence or abuse. This would also assist in addressing the tendency of schools to respond to trauma impacts with disproportionate responses such as restrictive practices.

It is worth noting that the creation of a reportable conduct scheme, administered by the NSW Ombudsman, for adults with disability living in group homes in NSW has resulted in over 437 reports since it began on the 3rd December 2014, far higher than police reports regarding violence. In other words, this approach has been demonstrated to provide a better sense of magnitude of the issue than prior approaches, especially for people with disability.

However, such schemes rely on *recognition* of particular behaviours/indicators as indicative of sexual abuse, or other kinds of violence. In many instances, violence against children with disability in schools is treated as legitimate due to being within school regulations (especially restrictive practices). It is not clear how these dynamics of downplaying violence against children with disability impact on the reporting (or not) of child sexual abuse; however, it is definitely of concern that the impacts of trauma – which may manifest as ‘challenging behaviours’ – may not be recognised by those who would otherwise report.

This indicates that better training in recognising the impacts of trauma, and the difference between trauma impacts and impairment would support mandatory reporting and reportable conduct schemes.

3. What obligations should schools have to alert teachers, parents/carers, other schools (for example, where a student changes schools or progresses to secondary school) and other professionals when a child has exhibited problem sexual behaviour, or has engaged in sexually abusive behaviour?

Social myths about people with disability and sexuality – namely that people with disability are either entirely innocent of any sexual desire, or are over-sexed – can impact on the assessment of the sexual behaviour of a child with disability. In some circumstances, children with disability who are displaying any sexual behaviour whatsoever are treated as displaying problem sexual behaviour. Additionally, for children with disability who have been denied any access to education regarding sex, sexuality, consent and respectful relationships, their ‘problem sexual behaviour’ may reflect a simple lack of knowledge, for which they cannot be held responsible.

Additionally, having an assessment of ‘problem sexual behaviour’ or even ‘sexually abusive behaviour’ follow a child with disability throughout their schooling can severely impact on their inclusion within the school community. This is particularly problematic when there is no sign of recidivism following treatment. It is worth noting that a key element of many successful programs for addressing problem sexual behaviour or sexually abusive behaviours focus on maintaining the connections with the child’s community, and the partial or full ostracism of a child from the school community may make recovery more difficult, and recidivism more likely.

Although sharing information about a child may seem to ensure the safety of their peers, the concerns raised above indicate that it may in fact put the child at risk of recidivism. Additionally, many of these identified behaviours do not constitute an offence, and it is inappropriate for the identification of these behaviours to remain part of a child’s record for

longer than a conviction would. In some states, substantial information about a child can already be shared solely on the basis of concerns for student welfare, and/or to facilitate student transfers. These states should have these arrangements evaluated to assess their impact, which may be both positive and/or negative for both the individual child and the school community. As we are unaware of evidence either way, it is difficult to make a clear recommendation.

4. How should investigations into allegations of child sexual abuse be undertaken within schools, and by whom? What measures should be taken to ensure that the sensitivities and vulnerabilities of children involved are considered?

Investigations of child sexual abuse should be undertaken by an independent body, preferably one which can enforce findings within schools, and refer to Police as appropriate. As proposed in our submission to the Senate Community References Committee Inquiry into Violence, Abuse and Neglect against People with Disability in Institutional and Residential Settings, a national watchdog body for the prevention of violence against people with disability would help ensure this level of independence.⁵⁷

In general, PWDA finds that the responses of state-based education agencies to allegations of violence (not necessarily/only sexual violence) perpetrated against children with disability are poorly responded to. Indeed, in some circumstances, forms of violence and restrictive practices, of the kinds recognised as problematic by the United Nations Committee on Torture, have been investigated by a Department of Education, and found unproblematic. An independent body is the only way to ensure that all concerns are heard, investigations are robust, and the human rights of children are protected.

Within such investigations, we would recommend that all possible ways for children to provide evidence be facilitated. Some may require interpreters, others may prefer to use augmentative or alternative communication devices or strategies, and others may require a support person to either be present or to pose the questions to them. These techniques are particularly significant for children with disability, but may also be important for other children who may be experiencing trauma.

5. Are there barriers which might prevent or limit appropriate and timely sharing of information about child sexual abuse (whether perpetrated by adults or other children) in school contexts? If so, do such barriers differ depending on which individuals, bodies or jurisdictions are involved (for example: sharing within and between schools, between schools and parents/carers, between schools and government agencies, regulators and oversight bodies, or across jurisdictions)? How could such barriers be addressed?

⁵⁷ Frohmader, C., & Sands, T. (2015) Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings'. Australian Cross Disability Alliance (ACDA); Sydney, Australia.<http://www.pwd.org.au/documents/Submissions/ACDASubSenInquiryViolenceInstitutions.doc>
Royal Commission into Institutional Responses to Child Sexual Abuse Schools Issues Paper

A key concern in the disability sector is the way that perpetrators of violence against people with disability are rarely convicted, and allegations may not be recorded against them. In many instances, perpetrators move between jurisdictions, and between sectors, continuing to target those who are vulnerable: children, people with disability, aged people, people from diverse cultural and linguistic backgrounds, and Aboriginal and Torres Strait Islander people. This can mean that a former disability support worker may have left the sector due to unproven allegations of sexual misconduct, but this may not impede them in applying for jobs in schools, especially in positions as teacher's aides or support workers for individual children.

It is also troubling that the principal responsible for the recent 'boy in the cage' is facing no charges, and although she has resigned, will not have a record that may impede her employment in schools in other states, private school settings, or, indeed, in disability support services.⁵⁸ In other words, one of our key concerns is how information is shared across sectoral boundaries, and we would recommend that these barriers be addressed in a holistic fashion, ensuring the safety of all marginalised and therefore vulnerable people.

Conclusion

In conclusion, PWDA would like to observe that children with disability are placed at higher risk of sexual abuse not by their impairments, but by the inadequacies of the environments in which they live, play and learn to respond to their specific needs. We also draw the Royal Commission's attention to the fact that ensuring the fulfilment of the human rights of children with disability, especially in education settings, is key to reducing the risk of sexual abuse that they face. With a better understanding of the specific risk factors for children with disability, the school community has an important role to play in ensuring the safety of these children.

⁵⁸ 'Report on Canberra boy with autism placed in cage released by ACT Government, principal loses position' *ABC News*, 8 Sept. 2015. <http://www.abc.net.au/news/2015-09-08/canberra-boy-in-the-cage-autism-report-released/6758582>