



Women
With
Disabilities
Australia
(WWDA)



**ROYAL COMMISSION INTO VIOLENCE,
ABUSE, NEGLECT AND EXPLOITATION OF
PEOPLE WITH DISABILITY**

**WWDA RESPONSE
TO EMERGENCY
PLANNING ISSUES**

OCTOBER 2020

WOMEN WITH DISABILITIES AUSTRALIA

PUBLISHING INFORMATION

Women with Disabilities Australia (WWDA) (2020). 'Response to Emergency Planning Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability'. October 2020. WWDA: Hobart, Tasmania.

Acknowledgments

WWDA acknowledges the traditional owners of the land on which this publication was produced. We acknowledge Aboriginal and Torres Strait Islander people's deep spiritual connection to this land. We extend our respects to community members and Elders past, present and emerging.

This document was written by Heidi La Paglia and Carolyn Frohmader for and on behalf of WWDA.

WWDA receives part of its funding from the Australian Government, Department of Social Services.

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Winner

National Human Rights Award 2001

Winner

National Violence Prevention Award 1999

Winner

Tasmanian Women's Safety Award 2008

Nominee

French Republic's Human Rights Prize 2003

Nominee

UN Millennium Peace Prize for Women 2000

Certificate of Merit

Australian Crime & Violence Prevention Awards
2008

Nominee

National Disability Awards 2017

Nominee

UNESCO Prize for Digital Empowerment of
Persons with Disabilities 2020

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1 RECOMMENDATIONS



1. RECOMMENDATIONS

- 1.1 The Royal Commission must recognise that people with disability are disproportionately affected in disaster and emergency situations due to the lack of accessibility in evacuation, response, and recovery efforts, and exclusion of disability issues in planning and preparedness. Inherent in this is the need to recognise that in disaster and emergency situations, people with disability are at higher risk than those without disability of death, injury, loss of property, difficulties during sheltering, vulnerability post-disaster, and require more intensive disaster management.
- 1.2 The Australian Government should consider the establishment of a *Centre for Disease Control and Prevention* (CDC), modelled on the United States CDC organisation (<https://www.cdc.gov>). Such an agency would enable, amongst other things, a centralised point for the prevention, management of, and response to disasters, emergencies, diseases and conditions and much more. Similar to the CDC (USA), such an agency in Australia would include a stand-alone unit on Disability (<https://www.cdc.gov/ncbddd/disabilityandhealth/index.html>), and incorporate Emergency Preparedness for people with disability, health professionals, emergency personnel, policy makers, media, communities, and more (<https://www.cdc.gov/ncbddd/disabilityandhealth/emergencypreparedness.html>).
- 1.3 In consultation with people with disability and their representative organisations, the Australian Government should develop a *National Disability Disaster Plan* that addresses all types of natural disasters and emergencies, including pandemics such as COVID-19, and that ensures access to disability specific and disability responsive support during all forms of natural disasters and emergencies.
- 1.4 Consistent with recommendations from the *Committee on the Rights of Persons with Disabilities*, the Australian Government should consult with people with disability and their representative organisations to establish nationally consistent emergency management standards to be implemented across all levels of government, that ensure inclusivity across diverse impairments and that cover all phases of emergency management preparation, early warning, evacuation, interim housing/accommodation and support, recovery and rebuilding.
- 1.5 The *National Disaster Risk Reduction Framework* (2018) and the *Australian Disaster Preparedness Framework* (2018) should be updated to include and provide specific information on the specific needs and rights of people with disability within these frameworks, including in their implementation and monitoring.
- 1.6 Consistent with recommendations from the *Committee on the Rights of Persons with Disabilities*, the Australian Government should, in close consultation with representative organisations of persons with disability, establish a fully accessible and inclusive mechanism to engage with people with disability in the implementation and monitoring of the *Sendai Framework*.
- 1.7 The new *National Disability Strategy* (NDS) currently under development and due to be completed in 2021, should incorporate clear, measurable targets to progress the implementation of the *Sendai Framework* as it applies to people with disability, in consultation with people with disability and their representative organisations.
- 1.8 The Australian Government, through the National Cabinet, should fully address and implement the ten priority areas of concern for people with disability in relation to the

COVID-19 pandemic, as articulated in the Open Letter to the National Cabinet from the disability sector, provided to all Governments on 2nd April 2020.

- 1.9 Consistent with the CRPD, including CRPD General Comment 7, and reflecting the critical role of DPOs and independent advocacy organisations (including in times of national disasters and emergencies), the Australian Government should provide long-term support, including core support and resources for disability advocacy and information services, research, capacity building, and violence prevention, to human rights based Disabled People's Organisations (DPOs), and to independent advocacy organisations.
- 1.10 The Australian Government should provide nationally consistent advice regarding standard information for people with disability during times of national disasters and emergencies. For example, COVID-19 testing for disability support workers and people with disability should be a national policy, not left to State/Territory governments to individually decide upon.
- 1.11 During times of national disasters and emergencies, the Commonwealth and State/Territory governments should provide uniform and nationally consistent information in order to avoid confusion, anxiety and distress amongst people with disability, and the broader community.
- 1.12 Acknowledging that Government pensions are the main source of personal income for 42% of people with disability of working age; the median gross weekly personal income of people with disability is half that of people without disability; more than 45% of people with a disability live in poverty, and 11.2% of people with disability experience deep and persistent disadvantage, (more than twice that of the national prevalence), the Australian Government should act urgently to increase the rate of the *Newstart Allowance* and the *Disability Support Pension* (DSP).
- 1.13 Recognising that there are currently no national *Information and Communication Standards* that require information to be fully accessible, nor any mandated minimum standards for government and public sector organisations to ensure web accessibility and usability; and for accessible information and services to be provided to the public, the Australian Government should act to develop *Information and Communication Standards* under the *Disability Discrimination Act 1992*, that require information to be fully accessible and communication supports to be routinely available.
- 1.14 Recognising that 67% of people with disability in Australia find government information inaccessible and/or difficult to understand, the Australian Government should develop a *Plain Language Act*, similar to the *Plain Language Act (USA) 2010*, which would require by law, Australian Government agencies and services (including contracted services) to use clear communication that the public can understand and use.
- 1.15 The Royal Commission must conceptualise and recognise that *segregation* of people with disability – in all its forms - is a violation of fundamental human rights and is an ideology with resultant practices that contravene the *Convention on the Rights of Persons with Disabilities* (CRPD) and other human rights treaties to which Australia is a party. Segregation is an underpinning enabler of violence, abuse, neglect and exploitation. It constitutes systemic neglect and exploitation; and the Royal Commission must hold governments and other stakeholders to account for supporting, maintaining and funding segregated systems.

- 1.16 Acknowledging that segregated settings in all their forms, enable violence, abuse, neglect, and exploitation against people with disability to flourish, the Australian Government should develop and implement a national, time bound strategy and framework for the closure of all segregated settings and environments, including those operated by non-government and private sectors, and allocate and provide the necessary resources for people with disability to move to genuine community based and individualised support options that will support inclusion and participation in the general community.
- 1.17 During times of national disasters and emergencies, the Australian Government should provide more accessible information *directly* to people with disability, particularly those in group homes, and other institutional and congregate care settings and environments. Australian governments must understand and acknowledge that many people with disability in these types of settings and environments, do not have access to the Internet, and are often denied access to information due to the ‘gatekeeping’ behaviour of service providers, some of which can be the perpetrator of violence, abuse, exploitation and neglect of people with disability.
- 1.18 The new *National Disability Strategy* (NDS) currently being developed, must reflect Australia’s obligations under the CRPD to address discrimination against women and girls with disability, and must include targeted, gender-specific measures to advance gender equality. The new NDS must include gender-specific measures to progress, monitor, review and evaluate actions across the NDS outcome areas, and provide for the collection of gender-disaggregated data across all NDS outcome areas.
- 1.19 In line with its Terms of Reference, which are based in the context of the CRPD, the Royal Commission should:
- explicitly recognise intersectionality as a key aspect of the human rights approach to disability;
 - ensure that an intersectional analysis is integral to all its work (including reports, community forums, stakeholder engagement, Hearings, publications, findings and recommendations);
 - identify, examine and address the specific issues, barriers, discrimination and human rights violations across all areas for women and girls with disability, as well as those that are specific to women and girls and/or that disproportionately affect women and girls with disability.
- 1.20 The Royal Commission, in consultation with women with disability and our representative organisations should conduct stand-alone Public Hearings, as well as forums, roundtables and other engagement activities to examine the specific experiences of women and girls with disability in relation to violence, abuse, neglect and exploitation – across and inclusive of all life ‘domains’, and areas.
- 1.21 The Royal Commission should establish an expert advisory group of women and girls with disability and our representative organisations to provide advice on the situation of women and girls with disability in all areas of examination, to provide advice on specific areas of examination that disproportionately impact on women and girls with disability, to provide advice on the process of examinations, findings and recommendations, and on other related matters.
- 1.22 To give full effect to Term of Reference G, the Royal Commission should:
- recognise ableism and intersecting forms of inequality and discrimination as the underlying drivers of violence, abuse, neglect and exploitation of people with disability,

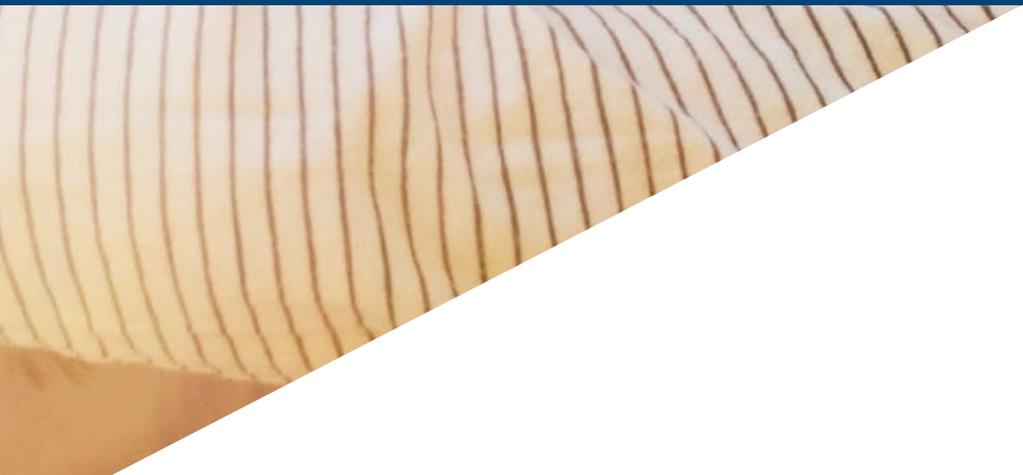
- including women and girls with disability;
 - examine how ableism and intersecting forms of inequality and discrimination operate within Australian legal, policy and practice frameworks and community attitudes generally, and how they underpin violence, abuse, neglect and exploitation;
 - make recommendations that address these root causes of violence, abuse, neglect and exploitation and that lead to large scale responses and social transformation.
- 1.23 Consistent with CRPD General Comment 3 and CRPD General Comment 7, the Royal Commission must provide safe and supportive spaces to enable women and girls with disability to engage with the Royal Commission without fear of retribution.
- 1.24 Consistent with repeated recommendations to Australia from the *Committee on the Rights of Persons with Disabilities*, the Australian Government should commission a comprehensive assessment, using intersectional research methodologies, on the situation and rights of women and girls with disability in Australia, in order to establish a baseline of disaggregated data and intersectional evidence to measure progress toward implementation of CEDAW and CRPD.
- 1.25 Recognising that Australia is a signatory to seven core international human rights treaties, each of which contain obligations relating to people with disability (including women and girls with disability), and which are expected to be viewed and implemented as complementary mechanisms through which to create a holistic framework of rights protection and response for all people with disability, the Royal Commission should consider in its work, all of the relevant recommendations made to Australia from the international human rights treaty monitoring bodies, not just those stemming from the *Committee on the Rights of Persons with Disabilities* (CRPD).
- 1.26 Consistent with and reflecting Australia’s international human obligations regarding the requirement for available, effective, independent and impartial remedies to be available to those whose rights have been violated under the various treaties, and reflecting recent recommendations to Australia by the *Committee on the Rights of Persons with Disabilities*, the Australian Government should ensure that a Redress Scheme is established for the Royal Commission.
- 1.27 Consistent with the protections offered by the *Royal Commission into Institutional Responses to Child Sexual Abuse*; ie: permanently sealing confidential Submissions and evidence after the Royal Commission ended, it is critical that the Royal Commission Legislation be amended as a matter of urgency in order to ensure confidentiality of Submissions and evidence after the Royal Commission is completed.
- 1.28 Acknowledging that the remit of the *National Disability Insurance Scheme (NDIS) Quality & Safeguards Commission* covers only NDIS participants, who make up less than 10% of the Australian population of people with disability, the Australian Government should establish an independent, statutory, national protection mechanism under specific purpose legislation, and with broad functions and powers to protect, investigate and enforce findings in relation to **all** forms of violence, abuse, exploitation and neglect against **all** people with disability, regardless of the setting in which it occurs and regardless of who perpetrates it. This national protection mechanism should explicitly operate within a human rights framework, and include as a minimum, the following core functions:
- a ‘no wrong door’ complaint handling function – the ability to receive, investigate, determine, and make recommendations in relation to complaints raised;
 - the ability to initiate ‘own motion’ complaints and to undertake own motion enquiries into systemic issues;
 - the power to make recommendations to relevant respondents, including Common-

- wealth and State and territory governments, for remedial action;
- the ability to conduct policy and programme reviews and ‘audits’;
- the ability to publicly report on the outcomes of systemic enquiries and group, policy and programme reviews, or audits, including through the tabling of an Annual Report to Parliament;
- the ability to develop and publish policy recommendations, guidelines, and standards to promote service quality improvement;
- the ability to collect, develop and publish information, and conduct professional and public educational programs;
- the power to enable enforcement of its recommendations, including for redress and reparation for harms perpetrated.

- 1.29 The *NDIS Quality & Safeguards Commission* should take a more proactive role in ensuring quality and safeguarding for NDIS participants. This needs to include for eg: well qualified and experienced Commission officers undertaking random, unannounced ‘spot checks’ of NDIS participants, particularly those in group homes, and other institutional and congregate care settings and environments.
- 1.30 Where possible and appropriate, all complaints to the *NDIS Quality & Safeguards Commission*, particularly those related to violence, abuse, exploitation and neglect, should automatically trigger the need for a ‘spot check’, whereby the participant is directly seen by, and ‘interviewed’ by qualified and experienced Commission officers, without service providers present.
- 1.31 The *NDIS Quality & Safeguards Commission* should urgently simplify its complaints process so that people with disability can lodge complaints in a simple and streamlined way.



2 ABOUT WWDA



2. ABOUT WOMEN WITH DISABILITIES AUSTRALIA

- 2.1 [Women With Disabilities Australia \(WWDA\)](#) is the award winning, national Disabled People's Organisation (DPO) for women and girls with all types of disability in Australia. The key purpose of WWDA is to promote and advance the human rights and freedoms of women and girls with disability. Our goal is to be a national voice for the rights of women and girls with disability and a national force to improve the lives and life chances of women and girls with disability.
- 2.2 WWDA represents more than two million disabled women and girls in Australia, has affiliate organisations and networks of women with disability in most States and Territories of Australia, and is internationally recognised for our global leadership in advancing the human rights of women and girls with disability. As a DPO, WWDA is governed, managed, run, staffed by, and constituted of, women with disability, for women and girls with disability.
- 2.3 DPO's are recognised internationally as organisations **OF** people with disability that are led, directed and governed **BY** people with disability. The United Nations *Committee on the Rights of Persons with Disabilities* has clarified that States should give priority to the views of these organisations when addressing issues related to people with disability. The Committee has further clarified that States should prioritise resources to organisations of people with disability that focus primarily on advocacy for disability rights and, adopt an enabling policy framework favourable to their establishment and sustained operation.¹
- 2.4 For more information on the extensive work of WWDA, please see:

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3 BACKGROUND



3. BACKGROUND

- 3.1 The *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (the Royal Commission)² was established after many years of campaigning by people with disability and our representative organisations at both the domestic and international level.³
- 3.2 Women With Disabilities Australia (WWDA) - including in our capacity as a founding member of Disabled People's Organisations Australia (DPO Australia) - played a leading role in these advocacy efforts, and in particular, in exposing the gendered nature of violence against people with disability.
- 3.3 In 2015, our collective campaign efforts led to the establishment of the *Senate Inquiry into 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.⁴ Recommendation 1 from that Senate Inquiry was that a Royal Commission into violence against people with disability be established.⁵
- 3.4 However, it was not until 2019, following further concerted advocacy efforts that the Royal Commission was finally established by the Australian Government. The urgent need for a Royal Commission into all forms of violence against people with disability, was a key recommendation from the 2017 review of Australia's compliance with the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); and was also addressed at the September 2019 review of Australia's compliance with the *Convention on the Rights of Persons with Disabilities* (CRPD).
- 3.5 The Terms of Reference for the Royal Commission are contained in the Commonwealth Letters Patent that were signed by the Governor General on 4 April 2019.⁶ The Terms of Reference explicitly state that:

“Australia has international obligations to take appropriate legislative, administrative and other measures to promote the human rights of people with disability, including to protect people with disability from all forms of exploitation, violence and abuse under the Convention on the Rights of Persons with Disabilities.”

- 3.6 The Terms of Reference reflect our campaign calls that the Royal Commission should have regard to “all forms of violence against, and abuse, neglect and exploitation of, people with disability, whatever the setting or context”.⁷
- 3.7 The Terms of Reference also reflect our calls for recognition of the intersectional dimensions of people with disability that make the experiences of violence, abuse, neglect and exploitation specific, unique and diverse:

“the specific experiences of violence against, and abuse, neglect and exploitation of, people with disability are multi-layered 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.”⁸

- 3.8 The intersectional analysis required by the Terms of Reference and enshrined in the

CRPD, is critical to ensuring that all forms of violence in all settings experienced by people with disability, including women and girls with disability is identified, understood and addressed.

- 3.9 Despite our collective calls for the Terms of Reference for the Royal Commission to include provision for a redress scheme, this was not included. In September 2019, the *Committee on the Rights of Persons with Disabilities* adopted its Concluding Observations following its review of Australia’s compliance with the CRPD. The Committee expressly recommended that the Australian Government: “ensure [adequate resources and] a **redress** mechanism for the Royal Commission”.⁹ It remains unclear as to whether the Australian Government will adopt this critical recommendation.
- 3.10 As noted in the Royal Commission’s *Accessibility and Inclusion Strategy*, it is now well established and recognised internationally and domestically that women and girls with disability are “*far more likely to experience violence and abuse than women and girls without disability, and they are less likely to report this abuse for both personal and systemic reasons*”.¹⁰ CRPD *General Comment No. 3 on women and girls with disabilities*, published by the *Committee on the Rights of Persons with Disabilities* in 2016, elaborates on this fact, and draws particular attention to the structural and institutional forms of gender-based violence related to law, the state and culture that women and girls with disability not only experience, but are more at risk of.¹¹
- 3.11 Australia has received numerous recommendations from the United Nations (UN) to investigate, address and remedy this situation for women and girls with disability. Very few of these recommendations have been implemented by successive Australian governments.



4 INTRODUCTION AND CONTEXT

4. INTRODUCTION AND CONTEXT

- 4.1 WWDA welcomes the opportunity to make this Submission in response to the Royal Commission's *'Emergency Planning and Response Issues Paper'* (the Issues Paper). We do so in recognition of the lack of attention given to women and girls with disability in Australia's responses to disaster planning and management, including through the 2019/2020 bushfire crisis, and the COVID-19 pandemic. Furthermore, we provide this Submission in recognition of the fact that the Royal Commission is yet to adequately discharge its duty under Term G of The Letters Patent, and Article 6 of the CRPD, to have an explicit and strong gender lens in its work, including by publishing an Issues Paper on the **specific** gendered experiences of women and girls with disability, and by holding stand-alone Public Hearings for women and girls with disability.
- 4.2 Australia is witnessing a significant increase in both the severity and frequency of natural disasters, and the link between climate change and extreme events is increasingly being recognised. Research has shown that people with disability are disproportionately affected in disaster and emergency situations due to the lack of accessibility in evacuation, response, and recovery efforts, and exclusion of disability issues in planning and preparedness.¹² Research on the effects of disaster on people with disability confirms that people with disability are at higher risk than those without disability of death, injury, loss of property, difficulties during sheltering, vulnerability post-disaster, and require more intensive disaster management.¹³ Research from the United Nations shows that only 20% of people with a disability could evacuate immediately and without difficulty, in the event of a sudden disaster like a bushfire; the remainder could only do so with a degree of difficulty and 6% would not be able to do so at all.¹⁴
- 4.3 Articles 9, 11 and 14 of the *Convention on the Rights of Persons with Disabilities* (CRPD), clearly stipulate that governments have a duty to ensure people with disability have the information and supports they need to stay safe and protected in situations of risk, including medical emergencies and natural disasters.¹⁵ In recent times however, people with disability have been excluded from, and marginalised within, government and non-government plans and responses to common and expected emergencies in Australia, such as bushfires, floods, droughts and virus outbreaks.
- 4.4 As stated in the Issues Paper:
- 'The Commonwealth Government has two frameworks in place to prepare for disasters: the *National Disaster Risk Reduction Framework (2018)*¹⁶ and the *Australian Disaster Preparedness Framework (2018)*.¹⁷
- 4.5 The Issues Paper notes that these two frameworks offer a coordinated approach to responding to emergencies and disasters, and outline the skills and capabilities needed to prepare for, respond to and recover from severe to catastrophic disasters. However, while it is recognised that these frameworks offer basic principles to support whole of population responses; they do not provide the nuanced approach that is necessary to meet the needs of people with disability during emergencies and disasters. Tellingly, the word 'disability' is mentioned only once across the entirety of both frameworks;¹⁸ and is in reference to the provision of 'mass', not specialised care, which particularly overlooks the complex and specialised needs of people with disability who face multiple intersections of disadvantage, such as Aboriginal and Torres Strait Islander people with disability, Lesbian, Gay, Bisexual, Transgender, Intersex, Queer and Asexual (LGBTIQ+) people with disability, and women and girls with disability.
- 4.6 In-line with Australia's two key frameworks, the practical exclusion and oversight of the

specific needs of people with disability in emergencies and disasters can be seen in Australia's response to the recent Summer Bushfires of 2019/2020, as well as the current COVID-19 pandemic, which are both discussed in this Submission.

- 4.7 Section 5 introduces WWDA's Submission by discussing the exclusion of people with disability from responses to the recent Black Summer Bushfires of 2019-2020, including the increased risks that the bushfire season posed to the safety of women and girls with disability.
- 4.8 Following on from this, Section 6 of the Submission focusses on the experiences of people with disability in the recent and current COVID-19 pandemic. In the context of planning and responding to emergencies and crises; this Submission uses the example of COVID-19 as a case study to outline the various areas in which responses need to be improved to support the rights, well-being and safety of people with disability during emergencies, including but not limited to the provision of targeted information, healthcare, services and supports. Throughout the paper, direct quotes and examples are used from women with disability, their families, friends and supporters who are members of WWDA. These quotes were gained through online consultations in closed Facebook groups and have been de-identified for the purpose of this Submission.



5 BLACK SUMMER BUSHFIRES 2019/2020



5. BLACK SUMMER BUSHFIRES 2019/2020

- 5.1 In the Australian summer bushfires that spanned for months from the end of 2019 to March 2020, many people lost, or had to flee their homes and experienced a range of physical, psychological and financial difficulties related to the fires.¹⁹
- 5.2 In response to the increasing needs of individuals and families affected by the fires, Australian Federal and State governments, non-government organisations and the community acted promptly to increase access to resources and supports for those in need, including by opening mass refuge shelters, distributing emergency supplies and providing constant, up to date information and advice on and to affected communities. However, while the responses taken were necessary and provided significant relief to the population as a whole; they included little consideration for the specific supports required by people with disability.
- 5.3 For example, across states/territories, media platforms and communities, there was a severe lack of information provided in accessible formats such as Auslan, Easy Read, Plain English and accessible digital formats, as well as a lack of information translated into first nations languages, and commonly spoken languages other than English.
- 5.4 In the early stages of the bushfire crisis, critical press conferences held by the Prime Minister of Australia, did not include an Auslan interpreter. Even when the Prime Minister of Australia travelled to bushfire affected communities, and gave media conferences from those locations, no Auslan interpreter was present. This was a major shortcoming during the bushfire crisis. WWDA subsequently wrote to the Prime Minister of Australia to suggest that the Prime Minister should have an Auslan interpreter travelling with him, or accompanying him at all times, so that any media and/or important messages communicated by the Prime Minister, can be accessible in real time to people who are deaf and/or hearing impaired and who rely on Auslan.
- 5.2 While disability advocacy organisations like People With Disability and Australia (PWDA), First Nations Disability Network (FPDN) and Ideas acted promptly to provide distressed members with targeted accessible information about the bushfires; these advocacy responses lacked the coordination and currency that was required of government and media announcements. In the dangers of the Black Summer Bushfires of 2019-2020, this lack of real-time access to critical information about how to access emergency support was not compliant with Article 9 of the CRPD (which states that public information and services must be accessible), nor Article 11 (which obliges States parties to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including ‘the occurrence of natural disasters’).²⁰
- 5.5 The inaccessibility of bushfire responses was also reflected in the fact that shelters, refuges and emergency accommodation options are (and were) generally not equipped to be accessible for many people with disability (including those with physical disability and/or chronic illness, and/or those with multiple impairments) who required assistive technologies, equipment, carers/support workers, and other vital supports. Reflecting on the crisis, one of WWDA’s members in Victoria who is bed-bound stated...
- “It occurred to me that it would probably not be safe for me to go to an emergency shelter, if I needed to evacuate because all of my assistive technology and supplies are set up permanently in my house.”²¹*
- 5.6 For women and LGBTIQ+ people with disability, the severe lack of accessible emergency accommodation options, also substantially increased their risk and experience of, becoming victims of violence, abuse and even homicide during the Black Summer

bushfires of 2019-2020. Internationally, a number of anecdotal and systemic studies indicate that all types of domestic, intimate partner and family violence against women are more prevalent during and after disasters.²²

- 5.7 In early 2020, this was reflected in Australia when front-line domestic violence services, (such as Safe Steps in Victoria)²³ reported increasing demand from women reporting violence and abuse in bushfire-affected regions.²⁴ The reasons for this are multiple and intersecting, but include increased risk factors such as increased stress and the destruction of social networks.²⁵ While these factors increase the risk of violence for all women; the severe lack of accessible emergency housing options for women with disability, combined with an increased reliance on partners and family members, increase the likelihood and impact of, violence and abuse perpetrated against women with disability during disasters.
- 5.8 In response to the inaccessibility of bushfire response services; DPO's across Australia called for urgent action to be taken to prioritise the needs of people with disability and improve the accessibility of emergency communications and services.²⁶ However, whilst it was recognised that many people with disability lost or had to leave their homes, accessible aids and equipment, mainstream emergency shelters and response services largely remained inaccessible throughout the crisis.²⁷ This oversight was not only negligent to people with disability who were affected by the bushfires, but also constituted non-compliance with several of Australia's international human rights obligations under the UNCRPD. In addition to articles 9, 11 and 14 previously discussed, Article's 16 and 28 which stipulate States parties obligations to protect the safety of people with disability and ensure that all people with disability have access to an adequate standard of living in all circumstances, (including adequate food, clothing, housing and/or shelter) were not adhered to throughout the Black Summer Bushfires of 2019-2020.
- 5.9 In response to the failure of Government and community responses to support people with disability during the Black Summer Bushfires, DPO's such PWDA and WWDA called for the development of a National Disability Disaster Plan, developed by people with disability, that included a plan for disasters like bushfires, droughts and floods.²⁸ As the national organisation representing women and girls with disability, WWDA reinforces this recommendation, with the stipulation that such a plan would need to include the specific and intersecting needs of diverse groups of people with disability, such as Aboriginal and Torres Strait Islander people with disability, LGBTIQ+ people with disability, culturally and linguistically diverse (CALD) people with disability and women with disability.
- 5.10 In 2013, the Committee on the Rights of Persons with Disabilities provided its Concluding Observations from its initial review of Australia's compliance with the CRPD.²⁹ In relation to Article 11 [Situations of risk and humanitarian emergencies], the Committee expressed its concern that:

'despite the adoption of emergency response and mitigation plans at the local and state levels, disability needs are often not explicitly factored into disaster response measures, and that there are as yet no specific measures in national plans to address emergency intervention strategies for persons with disabilities.'

- 5.11 The CRPD Committee recommended that:

'the State party to consult with people with disabilities to establish nationally consistent emergency management standards to be implemented across all three levels of government, ensure inclusivity across diverse disabilities'

*and cover all phases of emergency management preparation, early warning, evacuation, interim housing and support, recovery and rebuilding. The Committee further recommends the inclusion in national plans of emergency response schemes for persons with disabilities.*³⁰

5.12 Australia is a signatory to the *Sendai Framework for Disaster Risk Reduction 2015-2030*,³¹ which was adopted at the Third UN World Conference in Sendai, Japan, on March 18, 2015. The Sendai Framework is a 15-year agreement with seven targets and four priorities for action which aim to achieve substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries. People with disability are acknowledged in the Sendai Framework - establishing them and their representative organisations as legitimate stakeholders in the design and implementation of disaster risk reduction policies. In the Australian context, the Department of Home Affairs is leading Australia's reporting against the Sendai Framework³² and driving implementation³³ at a national level, however there is no mechanism for engagement with people with disability.

5.13 In 2019, the *Committee on the Rights of Persons with Disabilities* adopted its Concluding Observations following its review of Australia's compliance with the CRPD.³⁴ In relation to Article 11 [Situations of risk and humanitarian emergencies], the Committee expressed its concern about the lack of:

- (a) Nationally consistent emergency management standards that ensure access to disability-specific and disability-responsive support during emergencies;
- (b) A mechanism for engagement with organizations of persons with disabilities in the implementation of the Sendai Framework at the national level and its reporting process.

5.14 The Committee subsequently recommended that:

*in close consultation with representative organizations of persons with disabilities, the establishment of a fully accessible and inclusive mechanism to engage with persons with disabilities in the implementation and monitoring of the Sendai Framework.*³⁵

5.15 As outlined earlier in this Submission, Australia's two frameworks currently in place to prepare for disasters [the *National Disaster Risk Reduction Framework (2018)*³⁶ and the *Australian Disaster Preparedness Framework (2018)*³⁷] do not address disability, nor do they 'ensure access to disability-specific and disability-responsive support during emergencies', as recommended by the Committee on the Rights of Persons with Disabilities. There is also no established mechanism to engage with people with disability in the implementation and monitoring of the Sendai Framework (and/or the National Disaster Risk Reduction Framework and the Australian Disaster Preparedness Framework).

5.16 A new ten-year National Disability Strategy (NDS) is currently under development and is due to be completed in 2021. The National Disability Strategy offers a logical framework to incorporate clear, measurable targets to progress the implementation of the Sendai Framework as it applies to people with disability, in consultation with people with disability and their representative organisations.



6 THE COVID-19 PANDEMIC



6. THE COVID-19 PANDEMIC

- 6.1 In the impact and responses to the COVID-19 pandemic in 2020, the oversight and exclusion of people with disability has been similar to the experience of people with disability during the Black Summer bushfires of 2019/2020.
- 6.2 In Australia, there was a two month gap between the 17 February release of the Australian Health Sector Emergency Response Plan for Novel Coronavirus (COVID-19) (Emergency Response Plan)³⁸ and the 16 April endorsement by National Cabinet of the Management and Operational Plan for COVID-19 for People with Disability (Disability Operational Plan).³⁹ While the Emergency Response Plan highlights the need for specific health responses for ‘at-risk groups’, people with disability were largely excluded from risk mitigation measures and health responses to the pandemic until the development of the Disability Operational Plan.
- 6.3 The Disability Operational Plan states that it “reflects the Government’s commitment to upholding the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and the National Disability Strategy 2010- 2020.”⁴⁰ However, the specific needs of people with disability have largely continued to be excluded from local, state and national measures to address the impacts of the pandemic.
- 6.4 To address this exclusion, WWDA has consistently worked with other national, state and territory DPO’s and DROs to highlight the need for specific and targeted measures to support the safety, rights and well-being of people with disability during the pandemic. One key piece of work was the Open Letter to the National Cabinet, drafted by WWDA for and on behalf of 70 other Disabled People’s Organisations (DPOs) and Disability Representative Organisations (DROs) in Australia. The Open Letter to the National Cabinet, submitted to the Prime Minister and all members of the National Cabinet on 2nd April 2020, called for comprehensive measures to be taken immediately to address the health, socio-economic and human rights impact for all people with disability during the COVID-19 crisis.⁴¹
- 6.5 In summary, the Open Letter to the National Cabinet called for ten urgent actions to protect and support people with disability, their families, carers and support persons from the impact of COVID-19:
- Guarantee continuity of supports for all people with disability.
 - Expand criteria for COVID19 testing to include people with disability and their support persons.
 - Urgently improve information and communications to be inclusive of all people with disability.
 - Take measures to remove the barriers to adequate healthcare for people with disability.
 - Include recipients of the Disability Support Pension (DSP) in the Coronavirus Supplement of \$550 per fortnight.
 - Urgently define what constitutes an ‘essential service’ for people with disability.
 - Ensure effective measures are in place to recognise and respond to violence, abuse, exploitation and neglect of people with disability.
 - Prevent discrimination of students with disability in the provision of education.
 - Ensure the human rights of people with disability in congregate and other settings are upheld.
 - Adequately resource Disabled Peoples Organisations (DPOs) and Disability Representative Organisations (DROs) to enable support of, and advocacy for, people with disability.

- 6.6 Since this Open Letter, it is acknowledged that a number of actions have been taken by Federal, state and territory governments, including the establishment of a National Advisory Committee to guide the development and implementation of the Management and Operational Plan for COVID-19 for People with Disability,⁴² the expansion of testing criteria to include all people who have COVID-19 symptoms (or who have been in an at-risk situation) and the implementation of some measures to increase the accessibility of communications, such as Auslan interpreters for all government announcements. However, WWDA, along with many other organisations and individuals remain concerned that many of the issues that the open letter identified, (as well as new arising issues that have been created by recent social isolation and safety regulations) are yet to be fully addressed.
- 6.7 Using anecdotes and case studies from WWDA members, the remainder of this Submission discusses some of the ongoing issues the disability community is facing during the COVID-19 pandemic.

Barriers to Healthcare

- 6.8 The Management and Operational Plan for COVID-19 for People with Disability, emphasises the importance of ensuring that health services and health care respect the rights of people with disability, including the right to life, the right to the same standard of health care, the right to non-discriminatory health care free from value judgement and bias, and the right to autonomy and dignity in health care.⁴³ However, throughout the pandemic, WWDA has heard reports from members and the broader disability community about difficulties in accessing healthcare, including healthcare related to COVID-19, as well as appointments, procedures and treatments for ongoing and new health conditions.
- 6.9 In Australia and across the world, people with disability are at much greater risk than the general population from the COVID-19 pandemic, and in particular, older people with disability, First Peoples with disability, people with intellectual disability, people with psychosocial disability and those with chronic health conditions, co-morbidities, dependence on ventilators and those with compromised immunity. However, despite these risk factors, experiences of individuals have shown that people with disability are not being prioritised in medical/health decision-making related to COVID-19.⁴⁴
- 6.10 In the provision of COVID-19 testing for example, accessibility for people with disability has not been prioritised. Whilst testing criteria has expanded and testing sites have offered some accessible options such as drive-through testing, there has been very little outreach to people with disability who have mobility difficulties or compromised immune systems which prevent them from travelling. In an example passed onto WWDA from Blind Citizens Australia (BCA),⁴⁵ a woman with disability reported that she needed a test for COVID-19 due to her illness symptoms however she could not drive to the testing centre due to her vision impairment. The staff at the centre were unsure how to recommend transport options to the disabled woman about how to get to the centre, or how to otherwise administer the test.
- 6.11 Throughout the pandemic, it was incredibly difficult for organisations like WWDA, to provide accurate information to members and other stakeholders, regarding access to COVID-19 testing. For example, some States (such as Victoria) advised that COVID-19 testing was automatically available to disability support workers. Yet other States/Territories did not make testing available to disability support workers. This caused significant confusion for people with disability and disability support workers alike. WWDA recommends that all disability support workers should have access to testing, regardless

of whether they display symptoms or not. In addition, it is illogical for one or two States/Territories to offer testing for disability support workers, yet not others. This should be a national decision, not one left to State/Territory governments to decide on.

- 6.12 For many people with disability, it would be safer and more accessible for testing to be offered to individuals via travelling clinics. This would be particularly beneficial for people with disability in hard to reach settings such as regional and rural areas, Aboriginal and Torres Strait Islander communities, group homes, nursing homes and institutional settings, where COVID-19 has been spreading quickly. For individuals in these vulnerable circumstances, testing should also be practiced as a precautionary measure. As one woman with disability in NSW said:

(Current testing practices) “rely on rapid assessment of who needs treatment. If people with disabilities don’t exhibit symptoms, or can’t communicate them the way others do, they can be left down the priority list until they become unlikely to be saved. We need medicos to take notice of the individual and the way they exhibit symptoms amidst the chaos.”

- 6.13 Providing people with disability with access to necessary healthcare and medical treatments is part of Australia’s obligations under Article 25 of the CRPD. However, as the COVID-19 pandemic has increased demand on medical staff, facilities and resources; many people with disability have reported difficulties accessing essential medical and health services that are not related to COVID-19, including access to GP and specialist appointments, allied health practitioners, minor and major surgeries and treatments.

- 6.14 Across Australia, the transition to telehealth has been welcomed by many people with disability and has increased accessibility to some forms of healthcare for people who have mobility limitations or are isolating due to COVID-19. In a nation-wide survey conducted by People With Disability Australia (PWDA) on the experiences of people with disability during the COVID-19 pandemic for example, 38% of respondents said they had used Telehealth to access their GP, 32% had used Telehealth to access Allied Health services and 19% had used Telehealth to access a specialist.⁴⁶ However, the restriction of many services to telehealth only, has created additional barriers for people with disability who do not have access to devices to access telehealth, or who require in-person medical treatments and support. As WWDA members have described:

“Our therapy has moved online and to access this we have needed to purchase new technology and NDIS is saying they are not funding it. Without us we don’t have access to therapy.”

“So (many) of the information and services are online, but some people don’t the technology to be able to access it.”

“My GP has stopped doing chronic disease management plans due to telehealth and I don’t know why or where I stand with this.

“I can’t see my GP face-to-face and I can’t go interstate for urgent treatment. They are no longer doing outpatient surgery, which I really need so I’ll have to wait over a year now”.

“My sister needs regular blood tests. ACT pathology usually do home service for her. She has now been told that they can’t anymore due to COVID-19. She was told to go to the hospital, despite the fact she is severely immunocompromised and has a disability.”

- 6.15 Many people with disability have also reported difficulty in accessing prescription medications that they would usually be able to get, due to social distancing requirements, chemist closures and bulk-buying. In the *Children and Young People with Disability Australia* (CYDA) survey on the impacts of COVID-19 on families of children with disability for example, 18% of respondents said they had experienced difficulty accessing essential medications.⁴⁷ The international organisation for women with disability, Women Enabled International (WEI) similarly reported that 61% of women who participated in their global survey on the impact of COVID-19 reported difficulty accessing their usual medications and equipment;⁴⁸ a finding that has been mirrored in anecdotal experiences of women with disability in Australia who have explained difficulties accessing medications in lockdown periods in particular:

“I live in a rural area. Before all this, I used to get my medications in the city, where I worked. Now I have to go to the only chemist in the town where I live. The chemist in the city had to order my medication in and charged \$21.58 for my three scripts. The chemist in my town is charging me \$69.80 for the exact same scripts. Why am I having to pay extra for the same medications, just because I live 40kms away from the city?”

“Many of us have been worried about how we can access our prescription meds while we are stuck at home or about the possibility of supplies running out.”

“Many of us have been having trouble accessing our medication over the past weeks and have been told to be aware of shortages by our GPs, pharmacists and rheumatologists. Restrictions have been brought in around how X is prescribed now because of concerns over hoarding.”

- 6.16 Whilst CRPD Article 25 recognises the ‘right to the highest attainable standard of health, without discrimination on the basis of disability,’ many people with disability in Australia have faced difficulty accessing healthcare and medication throughout the COVID-19 pandemic for reasons directly related to their disability. As outlined in the above case studies, some women with disability have experienced difficulty accessing their medications because they have been restricted to travelling only to chemists within the suburb or town where they live, which do not necessarily stock the medication required for their scripts. For this reason, many of these women reported that they could only access their medications by paying significantly more for the same scripts, which they could not afford to do:

“My local chemist didn’t have a generic for my essential medication and refused to order it for me when I asked. The brand name medication is almost five times the price, and I can’t afford it.”



Inadequate Income Support

6.17 The situation described above where women with disability have been unable to afford medications that have increased in cost during the pandemic is not surprising news when we know that Government pensions are the main source of income for 42% of people with disability of working age,⁴⁹ and that the median gross weekly personal income of people with disability is half that of people without disability.⁵⁰ While the Federal Government has increased a number of support payments to assist with the increased cost of living caused by the COVID-19 pandemic through the Coronavirus Supplement of \$550 per fortnight, it excluded recipients of both the Disability Support Pension (DSP) and the Carers Payment from receiving the supplement.⁵¹

6.18 This exclusion is not only discriminatory, but also surprising given that COVID-19 has increased the cost of living for people with disability in particular. In the national survey conducted by PWDA on the experiences of people with disability during COVID-19, 91% of respondents reported increased expenses in a number of areas including groceries, food, healthcare and hygiene.⁵² Common reasons given for these costs included the increased need to pay for food and grocery deliveries due to isolation requirements, the need to purchase additional hygiene and personal protective equipment and a decreased availability of low cost brand foods and medications due to bulk-buying and travel restrictions. In the CYDA COVID-19 survey, the findings were similar. While examples were not as specific, 64% of survey respondents said they had been unable to buy essential groceries or hygiene products during the pandemic.⁵³ Again, anecdotal experiences of women with disability reported to WWDA have been similar:

“Our cost of living has risen, my income lowered, and I need to ensure I can provide all three of my children with disabilities what they need.”

“Online food and grocery services have been cancelled in our area. Cost of food has increased 300% due to cheap brands being unavailable.”

“I have not been able to afford to buy sanitary products. I have had to prioritise food for my children. I have had to use paper towel and old rags when I’ve had my periods.”

6.19 In response to these experiences, DPO’s, DRO’s and disability activists across Australia have supported a number of collective actions to call for the Federal Government to extend the Coronavirus supplement to recipients of the Disability Support Pension (DSP) and the Carers Payment.⁵⁴ However, this call has not been actioned.

6.20 In addition to Article 11 of the CRPD, which outlines the need to support the safety and well-being of people with disability in all disaster and crisis situations, the failure of the Australian Government to provide adequate financial support to people with disability to cover basic costs is not compliant with Article 28 of the CRPD, which stipulates that states parties to the Convention must support the “adequate standard of living for themselves and their families, including adequate food, clothing and housing.”⁵⁵ While the decision to exclude recipients of the Disability Support Pension (DSP) and Carers Payment has been defended by members of parliament, the discriminatory nature of the decisions has caused major distress and anxiety for people with disability who rely on these payments.

6.21 As stated by WWDA members:

“Because the government has bailed out almost all other sections of the community, supermarkets are taking by doubling their prices... but people with

disability, carers and the aged are the ones disastrously affected by this. The minister for NDIS has come to our rescue, or has he? He has organised a priority delivery system with the supermarkets. But we cannot use NDIS funds for the delivery costs. It's like he is laughing in our faces. I got you the priority delivery, You just have to eat less. Hahaha. People with disability are facing up to \$60 per fortnight in delivery costs because of the scarcity of items, some unavailable and others restricted. People with disability have been massively marginalised by this government. We are NOT all in this together."

"The Coronavirus Supplement only being open to those without a disability payment (including carers) would constitute a Violation of Sections 4, 5,8a(iii),9.1(b),10, 11, 17, 19(b,c) 27 and 28 of the UNCRPD. Under Australia's international and Human Rights Obligations If these supports can be afforded to others without disability, then they should not exclude those with disability."

"As a single, significantly disabled parent, it is a struggle to make ends meet in normal circumstances. I am unable to leave the house without assistance, and now I am in a position where I'm unable to leave the house whatsoever. This will continue to be the case for many months to come. My expenses have increased astronomically over the last few weeks, both in terms of accessing food and essential household items, as well as receiving medical care. How is it fair that I'm receiving less money per fortnight as a disabled single parent compared to an able-bodied single parent, when my expenses are higher and unable to be reduced?"

- 6.22 It is increasingly clear that natural disasters and emergencies (such as COVID-19) expose existing inequalities. Research demonstrates that the people who face the greatest levels of risk – and therefore require the highest resilience – are likely to be those that face the highest inequality and barriers accessing their rights in everyday life. This includes people with disability, women, children, older persons, Indigenous peoples, people with chronic health conditions and other contextually marginalised people.⁵⁶
- 6.23 In order to support the rights and well-being of people with disability during the COVID-19 pandemic and any future pandemics; the Federal Government must recognise the stress that crisis and emergency situations place on the financial stability of the disability community. Policy decisions must consider the specific needs of people with disability in terms of access to healthcare, medication and essentials; as well as the specific economic disadvantages that face different cohorts of people with disability across Australia. For example, research indicates that women with disability spend more of their income on medical care and health related expenses than men with disability and are in lower income brackets on average.⁵⁷ The economic disadvantage of Aboriginal and Torres Strait Islander people with disability are similarly exacerbated.

Barriers to accessing supports

- 6.24 In addition to financial barriers, a range of changes that have occurred as a result of, or in response to the COVID-19 pandemic, has increased barriers for people with disability to be able to access support services and supplies. For example, while decisions to limit in person support have been made under the premise of limiting the spread of the virus; these decisions have largely omitted the needs of people with disability who rely on paid support workers for basic tasks of independent living, including preparing and consuming

food, personal hygiene, and leaving their homes.⁵⁸ People who are blind or vision impaired for instance, often rely on physical guidance from a support person to navigate things like crossing roads and doing grocery shopping. However, touching a support worker for this purpose would, under COVID-19 restrictions, violate the requirement to stay 1.5 meters away from other people.⁵⁹ The requirement for people to maintain a 1.5 meter distance from others in all instances could be considered inconsistent with the CRPD which explicitly states in Article 19 that state parties must support people with disability to live independently and be included the community.⁶⁰

- 6.25 Across Australia, a major issue for people with disability has been the closure, or limitation of disability support services in response to requirements to maintain social distancing. While government announcements have consistently claimed that ‘essential workers’ are permitted to continue providing services,⁶¹ the implementation of this has not been consistent. While some people with disability have said that they have not had difficulties accessing support services, others have reported significant reductions to support services they usually access on a regular basis. In PWDA’s survey on the experiences of people with disability during the COVID-19 pandemic for instance, 41% of respondents who were NDIS participants said they had received less support through the NDIS, and 47% of respondents who were not NDIS participants said they had received less support than usual during the COVID-19 pandemic.⁶² In reports to WWDA, many women with disability have also illustrated this experience.

“My provider rang me to say they are reducing my support to 4hrs 3 days a week for essential services only. They told me that I am only one of 4 to get limited support out of 35 clients.”

“I can no longer get occupational therapy or physio from the hospital. My support workers are mostly only doing over the phone support.... I can’t get referrals for new supports.”

“My disability prevents me from having people come into my home, so I am not able to access any support. They need to allow us to receive support outside our homes. If they don’t do this, the only human contact I will have is a one-hour weekly FaceTime appointment with my psychiatrist and a fortnightly Woolworths grocery delivery. I’m very concerned about how this will impact my mental health/psychosocial disability.”

“I find psychosocial disability/mental health supports are getting cut more than some other disability supports. My mental health supports keep me out of hospital the same as personal care supports help someone with physical disability stay healthy.”

- 6.26 Like the PWDA survey participants, the women with disability quoted above have described ongoing difficulties accessing supports during the COVID-19 pandemic that they usually rely on. In addition to the social distancing restrictions that have been placed on many support workers, these issues have been compounded by difficulties accessing personal protective equipment (PPE)⁶³ and requirements for people with disability to be even more vigilant about social distancing due to being immunocompromised or high risk.
- 6.27 In anecdotal reports for instance, many people with disability have described an increase in reliance on at home supports and delivery services, so that they can avoid public and high-risk settings. However, access to these services has also been limited. In one report to WWDA a woman with autism and chronic illness explained that she could not access the food she needed for her support dog through online deliveries:

“Went into lockdown in March as I was symptomatic and immune compromised, and it took weeks to get priority assistance for autism and immune issues and hypertensive disorder. I live alone with my medical assistance dog, so I had to rely on friends for food and basic supplies throughout March and April...”

“Now, in the second lockdown, I can’t get food for my assistance dog. She has a gut condition and her diet is human grade chicken and very strict. If she gets sick, she can’t take care of me in the night and she wakes me if my blood pressure is too high. Recent stock limits have made it a struggle to get deliveries of four whole fresh chickens a week. This is my priority for my dog.”

“I’m autistic and a friend acting as an advocate logged in and pleaded with them re this as a simple request. They have been dismissive and recommended I give her regular dog food. They don’t read the messages and fail to see how life threatening this is if my dog gets ill.

“I feel like Woolworths wants the status of being disability friendly and yet not do the work to actually make that happen.”

6.28 Across the country, some provisions have been put in place by major supermarket chains to In recognition of the specific needs of people with disability. For example, early in the pandemic, many supermarkets implemented a specific time slot for members of the community who had disabilities or were elderly to do their shopping,⁶⁴ and later on, online shopping deliveries were offered as a priority to individuals who were NDIS participants or had concession cards.⁶⁵ However, while these measures were welcomed, they did not account for the needs of many people with disability who do not have these forms of identification.

6.29 These failures to meet the needs of people with disability in response to the COVID-19 pandemic is not only limiting their ability to live independently but is also not compliant with the requirement of states parties to support an adequate standard of living for people with disability under Article 28 of the CRPD.⁶⁶

6.30 In order to meet the needs of people with disability in responses to the COVID-19 pandemic, it is paramount that the specific needs of people with disability are included in the definition of what constitutes an ‘essential service.’ As outlined in the Open Letter to the National Cabinet, there is ambiguity around the term ‘essential service’ as it applies to people with disability.⁶⁷ This ambiguity has caused many issues for people with disability as well as disability service providers and has left many individuals with feelings of anxiety and distress.

6.31 As stated by a woman with disability:

“I’ve got to the place where I have had panic attacks and self-harmed over long stressors with getting food and basic supplies.”



Inaccessible communications

- 6.32 In order to respond effectively to any mass disaster or crisis situation, it must be ensured that people with disability have access to essential public broadcasts and information. In some situations, like bushfires, floods and earthquakes, access to up-to-date real-time information can be the difference between life or death for individuals. While the impacts of information inaccessibility during the COVID-19 pandemic may not be as immediate; they are just as critical.
- 6.33 In Australia, residents around the country have relied on daily news updates for information such as where the virus has spread and what protective measures should be taken. It is well known that without access to this information, individuals and communities are at much greater risk of contracting coronavirus, and in turn suffering severe or fatal consequences; as well as placing others at risk. Despite these risks however, there have been major failings across the nation in the distribution of accessible information.
- 6.34 Reflecting evidence from 2019 that 67% of people with disability in Australia find government information inaccessible and/or difficult to understand;⁶⁸ people with disability have reported difficulty accessing information about COVID-19 throughout pandemic. In early 2020, some of these difficulties related to a widespread failure of governments and media outlets to include accessibility measures in public messaging. Specific issues experienced by people with disability were outlined in the disability sectors Open Letter to National Cabinet and included: 'a lack of provision of interpreters; lack of information in Plain English and/or Easy Read; lack of captioning; lack of information provided in first languages; lack of communication supports; lack of access to the Internet; congested and unreliable telecommunications services.'⁶⁹
- 6.35 It is recognised that actions have been taken since the distribution of the Open Letter to improve the accessibility of public broadcasting, such as the distribution of Easy Read resources, the inclusion of Auslan interpreters at press conferences and the implementation of audio descriptions on publicly funded channels.⁷⁰ However, in the context of the ongoing pandemic, people with disability are still reporting a number of issues with the accessibility of publicly distributed information and resources about and related to COVID-19. For example, in PWDA's survey, some respondents reported that there was a lack of information specific to their situation as a person with disability and/or that the information provided was not easy for them to understand.⁷¹ In the CYDA survey of families of children with disability, a telling 82% of respondents also reported that they lacked information they needed about Coronavirus.⁷² While this deficiency in information was due to a variety of factors, it was commonly reported that information was not targeted or specific to the needs of risk of people with disability, and in particular those with chronic illness or compromised immunity. As a result, many individuals with disability and their families have been left feeling uncertain and anxious about what they should do to.
- 6.36 In one experience reported to the Disability Royal Commission, a WWDA member who lives with an intellectual disability in North-West Tasmania described feeling scared to leave her house after receiving inconsistent and confusing information about the rules during her local COVID-19 lockdown in April. The 30 year old explained that she was told by one police officer that she was told by one person that she was allowed to go out to buy groceries, go for a walk or visit her parents, but told by a police officer that she would face a \$16,000 fine if she went outside her house, regardless of the circumstances. She described feeling very anxious and confused by the inconsistency and that she did not understand the government messages that were being distributed about the lockdown.⁷³

“I stopped watching the news because I didn’t like it and it was confusing. I found the things the Premier was saying on television was very confusing.”

- 6.37 In other reports, WWDA members from across Australia have reported similar feelings of confusion:

“For people who are immune suppressed/compromised, or otherwise vulnerable, does s anybody know what we are supposed to do if a family member is infected? My husband is still working out of home and although he doesn’t work with many people, he could easily pick it up at a servo, or out getting my medication.... I just don’t know what I’m supposed to do if he becomes infected. Obviously staying with parents is out of the question, and there is really NO-ONE I would be ok with putting at risk.”

“There is so much inconsistency it makes my head hurt - and people with disability are not being respected”

“There should be a coordinated centralised information source. Better information about the risk levels of different activities and practically what can be done to reduce risk - i.e. if I need to go to a physio appointment, what should I do. An information and advocacy helpline”

- 6.38 As people with disability are particularly vulnerable to experiencing severe and fatal health consequences during virus pandemics, the provision of targeted and specific information on how to stay safe during the COVID-19 pandemic should be considered a requirement under Australia’s obligation to abide with Article 11 of CRPD which states that “state parties shall take all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk.”⁷⁴ However, in Australia, information about Coronavirus has not only lacked specificity to the disability community, it has also often failed to adhere to Article 21, which outlines the requirement for signatory countries to ensure that public distributed information is accessible to people with disability:

‘States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- a) *Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost.*⁷⁵

- 6.39 As previously stated, it is recognised that some actions have been taken to improve the accessibility in response to grievances from the disability community. However, public information and resources have remained inaccessible to many people with disability due to a lack of access to accessible information technology. In reports to WWDA for example, many women with disability have stated that they do not own a device such as a tablet or smart phone, which they can use to access 24/7 information and updates about Coronavirus. It must also be recognised that many people with disability (particularly those in closed settings) do not have access to the Internet and rely on third parties in order to access information.

- 6.40 While it is recognised that the National Disability Insurance Agency (NDIA) has made allowances for the provision of assistive technology in National Disability Insurance

Scheme (NDIS) plans; the NDIS covers less than 10% of people with disability across Australia,⁷⁶ and is therefore not sufficient to meet the technological access needs of the majority of people with disability. In addition, a sole reliance on the NDIS to provide technological devices to those in need would inevitably increase gender inequalities within the disability community, due to both the low representation of women and girls with disability (37%) among NDIS participants⁷⁷ and the fact that women with disability on average have lower disposable incomes.⁷⁸

- 6.41 It also needs to be recognised that access to assistive technology does not eliminate accessibility issues unless the provision of digital information is made accessible. To illustrate this importance, Blind Citizens Australia (BCA) shared an experience to WWDA, in which one of their members attempted to use the Australian Government's COVIDSafe App, to assist them in swift identification and response if they had come into contact with an individual who has tested positive for COVID-19. However, the individual could not use the App because it was not appropriately set up for screen readers. Reports from the community have also indicated that the App was affecting other applications which were used by people with diabetes to monitor their levels of glucose.⁷⁹ While this is only one example, it is illustrative of a much broader failure of governments to consider the needs of people with disability in decision-making and in the distribution of information about and related to COVID-19; a failure which has unfortunately continued in ongoing efforts to tamper the virus.
- 6.42 In response to the surge of COVID-19 cases in Melbourne, Victoria in July-August 2020 for instance, the decision to make the wearing of masks compulsory was made without consideration of the impact on people who are deaf or who have other impairments which require them to rely on lip-reading and/or facial expressions to communicate.⁸⁰ In a report to WWDA by a member who is a deaf woman with disability, it was explained the legislation of this requirement has made her worried about her ability to access essential supplies. In a less than desirable experience, the individual described going into a printing business to order printed materials she needed for medical reasons but being unable to communicate with staff who were all wearing facial masks. In addition, people with psychosocial disability may not necessarily be able to wear masks due to the impact of their impairment. Women who have experienced violence (including sexual violence) have spoken publicly about the difficulty of wearing face masks.
- 6.43 While the implementation of compulsory masks is a reasonable measure to prevent COVID-19 from spreading unnecessarily, measures to support the deaf community (and other people with disability who cannot wear masks) through the transition should have been considered prior to its implementation. Instead, however, disability advocacy organisations and charitable groups have been left scrambling to promote the need to remove masks when communicating with the deaf community to and to provide communication assistance to those who are struggling. In an effort to lessen communication difficulties for example, Deaf Victoria has distributed self-advocacy flyers that deaf individuals can print out and use to relay their communication needs to others.⁸¹ For the WWDA member who could not communicate with staff to order print materials however, this alternative would still be inaccessible. As stated by the woman herself:

“There is an exemption for people to remove the mask when addressing someone with a communication disability. However, there has been no publicity around the necessity of removing masks when talking to someone who requires seeing their face for lip reading. This experience forces me to think about only isolating at home.”

Social isolation and segregation

- 6.44 Across the world, research has already shown that people with disability are more likely to be socially isolated than people without disability.⁸² In 2018, the Australian NGO CRPD Shadow Report Coordinating Committee, undertook a national survey of people with disability to help inform the development of the *CRPD NGO Shadow Report* for Australia's 2019 CRPD review.⁸³ Of the almost 900 respondents, 72% were women with disability. An alarming number of respondents identified 'feelings of social isolation' as one of their key concerns. There was also a concerning number of comments referring to suicide, or being better off dead, reflecting the mental health challenges and psychological pressures faced by many people with disability. Throughout the pandemic, there has been evidence that people with disability have felt even more isolated. In the PWDA and CYDA surveys of individuals with disability and their families for example, respondents described experiences of isolation from support networks and subsequent feelings of worry and distress.⁸⁴
- 6.45 Due to social distancing requirements, border closures and the temporary shutdown of community gatherings; many people with disability have had limited access to informal supports during the COVID-19 pandemic, such as family members, friends and disability support groups. In turn, many individuals have experienced increasing anxiety and stress about their ability to meet basic needs such as accessing medical supplies and groceries. For example, the woman with disability who told WWDA about her struggles accessing food for her support dog explained that she had experienced severe stress due to difficulties.

"I've got to the place where I have had panic attacks and self-harmed over long stressors with getting food and basic supplies."

- 6.46 To combat periods of extreme isolation; a number of disability support organisations have introduced online networking sessions for their members. For example, the Speak Out Association of Tasmania, which is an advocacy organisation for people with intellectual disability, has been running regular Facebook live chats and Blind Citizens Australia has similarly introduced online 'happy hours.' These sessions have been warmly welcomed by many members of the respective organisations. However, they are only accessible to people with access to stable internet connections and electronic devices, such as laptops or smart phones. While internet access is common across most age groups and demographics; it is often limited or non-existent among some particularly vulnerable groups of people with disability, such as elderly people, people living in group and congregate care settings and rurally located Aboriginal and Torres Strait Islander people. Despite the fact that CRPD Article 19 requires states parties to support the inclusion of people with disability, there has been little attempt by governments during the COVID-19 pandemic to combat the social isolation and segregation of vulnerable communities.



Experiences of violence, abuse, exploitation and neglect

- 6.47 As well as Article 19 of the CRPD, which supports the ‘full inclusion and participation (of people with disability) in the community,’⁸⁵ General Comment 5 of the United Nations Convention on Economic, Social and Cultural Rights (ICESCR) prohibits segregation on the basis of impairment.⁸⁶ However, despite being signatory to both Conventions, the explicit segregation of people with disability has been not only allowed during the COVID-19 pandemic in Australia, but also encouraged. Since the beginning of the COVID-19 outbreak, WWDA has received evidence of this in the form of anecdotal reports of women with disability being locked up against their will and having their rights to access support services, money, information, friends, family and even food restricted to them in the name of COVID-19 lock down measures.
- 6.48 In one report for example, WWDA was told that a woman with intellectual disability who resides in a segregated accommodation setting had been left without support. While the individuals NDIS Plan stated that she needed to be provided with 6 hours of direct support each day, it was reported that her support workers had for the most part not been turning up, and when they had, they remained in the ‘staff room’ which was not accessible to the residents. Throughout this time, the individual was left living with skin infections all over her body, in a rat-infested unit, with maggots, flies and carpets soaked in urine and blood; and very limited access to adequate food and pain management medications.
- 6.49 In another incident, it was reported that a Government run permanent living facility for people with psychosocial disability used the lockdown rules to restrict residents from accessing their finances, and confined them to their individual living quarters, with no access to family or friends. While the majority of the residents were individually receiving the Federal Government Disability Support Pension (DSP), the facility collected their payments into its own account and did not allow residents to use or even see their own income. After many weeks of enduring extreme isolation, one woman who resided at the facility sent multiple complaint emails to the management, outlining the human rights laws they were breaking. After receiving an inadequate response to her emails, the resident escaped the facility and took her own life.
- 6.50 Given that circumstances that allowed these experiences to occur violate the international prohibition of segregation, as well as Australia’s obligation to safeguard people with disability from violence and abuse under Article 16 of the CRPD,⁸⁷ it is abhorrent that they are not uncommon or isolated anecdotes. In Australia, there has already been public evidence of many severe instances of violence, abuse and neglect of women and girls with disability during the COVID-19 isolation periods. For example, the cases of the 54-year-old woman, Ann-Marie Smith in April 2020 in Adelaide⁸⁸ and of four-year-old, Willow Dunn in Queensland,⁸⁹ who both died after being severely abused and neglected, are both examples of this broader trend.
- 6.51 While there is no gender disaggregated data available for the overall rates of women with disability who experience violence, abuse, neglect and exploitation, we do know that people with disability experience violence at much higher rates (47%) than people without disability (36%)⁹⁰ and that women overall experience much higher rates of violence during pandemic circumstances due to a range of reasons such as stress, uncertainty, dependence on others, and periods of isolation.⁹¹ There is also significant evidence that women with disability are much more likely to experience violence in residential and institutional settings, where the perpetrators are caregivers and support workers.

- 6.52 For many women with disability, especially those in institutional settings, there is a further risk of violence during pandemic periods due an increased dependence on others for basic needs such as access to food and support for everyday living. While this dependence does not automatically lead to abuse and violence, it is clear from the evidence that rates of violence, abuse, neglect and exploitation of women with disability have drastically increased during the COVID-19 outbreak in Australia, as well as internationally.
- 6.53 In Women Enabled International’s global survey on the impact of COVID-19 on women with disability for instance, 22% of respondents reported that they had feared for their safety since the beginning of the COVID-19 outbreak.⁹² In the 2018 national survey of people with disability undertaken by the Australian NGO CRPD Shadow Report Coordinating Committee, 33% of respondents experience violence or abuse. In addition to this, just 41% of respondents feel safe in their community, and only 53% of respondents feel safe where they live.⁹³
- 6.54 While violence, abuse, neglect and exploitation are unacceptable in any circumstance, what is particularly alarming is that there is a severe lack of means to report, identify and respond to violence by institutions and services against women with disability. While the NDIS Quality and Safeguards Commission was established in 2018 to safeguard the individuals receiving services through the National Disability Insurance Scheme (NDIS); the Quality and Safeguards Commission only has the remit to cover NDIS participants, which make up less than 10% of the Australian population of people with disability.
- 6.55 To support the safety of all women and girls with disability going forward, it needs to be ensured that there are appropriate mechanisms in place that both prevent violence as well as identify violence when it occurs and act promptly to respond.
- 6.56 In 2015, the Australian Cross Disability Alliance (now known as DPO Australia) provided a detailed Submission to the Senate Inquiry into Violence against People with Disabilities in Institutions.⁹⁴ The Submission from DPO Australia contained a number of recommendations, including the need for the establishment of an independent national protection mechanism under specific purpose legislation, and with broad functions and powers to protect, investigate and enforce findings in relation to **all** forms of violence, abuse, exploitation and neglect against **all** people with disability, regardless of the setting in which it occurs and regardless of who perpetrates it. This recommendation was agreed to by the Senate Inquiry and formed the second priority recommendation of the Inquiry’s Final Report (the first being the need for a Royal Commission).⁹⁵
- 6.57 WWDA therefore reiterates our recommendation to the Royal Commission (included in past WWDA Submissions to the Royal Commission) that:

*Acknowledging that the remit of the National Disability Insurance Scheme (NDIS) Quality & Safeguards Commission covers only NDIS participants, who make up less than 10% of the Australian population of people with disability, the Australian Government should establish an independent, statutory, national protection mechanism under specific purpose legislation, and with broad functions and powers to protect, investigate and enforce findings in relation to **all** forms of violence, abuse, exploitation and neglect against **all** people with disability, regardless of the setting in which it occurs and regardless of who perpetrates it. This national protection mechanism should explicitly operate*

within a human rights framework, and include as a minimum, the following core functions:

- a ‘no wrong door’ complaint handling function – the ability to receive, investigate, determine, and make recommendations in relation to complaints raised;
- the ability to initiate ‘own motion’ complaints and to undertake own motion enquiries into systemic issues;
- the power to make recommendations to relevant respondents, including Commonwealth and State and territory governments, for remedial action;
- the ability to conduct policy and programme reviews and ‘audits’;
- the ability to publicly report on the outcomes of systemic enquiries and group, policy and programme reviews, or audits, including through the tabling of an Annual Report to Parliament;
- the ability to develop and publish policy recommendations, guidelines, and standards to promote service quality improvement;
- the ability to collect, develop and publish information, and conduct professional and public educational programs;
- the power to enable enforcement of its recommendations, including for redress and reparation for harms perpetrated.

6.58 Furthermore, WWDA reiterates past recommendations we have made to the Royal Commission regarding the need to end segregation of people with disability as a critical requirement in preventing violence, abuse, exploitation and neglect. WWDA also draws the Royal Commission’s attention to the recent Position Statement to the Royal Commission, developed by DPOs and DROs, entitled *Segregation of People with Disability is Discrimination and Must End* (September 2020). This Position Statement includes six urgent actions to end segregation of people with disability in Australia.



ENDNOTES



ENDNOTES

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