

Article Information

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Service: Commissions & Inquiries, Dispute Resolution & Litigation

Sector: Health & Life Sciences, Not-for-Profit

Summary Alert: Disability Royal Commission COVID-19 Hearing

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) held a public hearing last week that focused on the impact of COVID-19 on people with disability. While the inquiry largely centred around the Commonwealth's response to the pandemic, this virtual hearing held over four days highlighted issues of critical relevance to disability service providers.

Hearing objectives

The hearing concentrated on experiences of people with disability during the ongoing COVID-19 pandemic and focused much of its inquiry into the Commonwealth's preparedness for the impact of COVID-19 on those with disabilities and their service providers.

Broadly speaking, the objectives of the hearing were to:

- hear from people with disability and their families recount their own experiences during the pandemic;
- examine the response of the Commonwealth to the risks to health, safety and wellbeing of people with disability;
- identify measures the Commonwealth should have taken to protect the health, safety and wellbeing of people with disability during the pandemic; and
- recommend measures that will protect the health and safety of this vulnerable group, both during the remainder of the pandemic and in future emergencies.

The Chair, Commissioner Ronald Sackville AO QC, noted the Commission will not wait until the Final Report to make any possible recommendations relevant to the COVID-19 pandemic.

Gaps in COVID-19 response

In Senior Counsel Assisting's opening address, Kate Eastman SC identified a number of issues with Australia's response to COVID-19. Of concern, Eastman SC identified that no current data or statistics are available to inform people about the COVID-19 rate of infection, or the impact, on people with a disability in Australia is concerning. Eastman SC submitted that Australians with disability are in a vulnerable population in the pandemic because they are at elevated risk of infection and the chances of COVID-19 infection being serious due to underlying health conditions, or chronic conditions.

Notably, none of the Government's pandemic responses dealt with people with disability. For example, there was no express mention or reference by the Government in the National COVID-19 Plan addressing the needs of people with disability. Counsel Assisting noted with concern that the Government developed a targeted response for the aged care sector, but not for the disability sector. Of note:

- On 26 March 2020, the Disability Royal Commission issued a Statement of Concern calling on the Australian Government to consider the issues mentioned above such as developing a strategy to reduce the impact of the pandemic on those people with disability.
- On 2 April 2020, numerous disability organisations issued an Open Letter to the National Cabinet imploring governments that: *"Now is the time to Act on pandemic measures for people with disability"*.
- By 16 April 2020, the Commonwealth Department of Health's Management and Operational Plan for COVID-19 for People with Disability was approved.

Case examples

The recent hearing gave the opportunity for powerful evidence to be given from those with disability who demonstrated how the lack of adequate and accessible information can have extremely dire consequences. Mr Anthony Mulholland, a First Nations man with an intellectual disability, gave evidence of feeling isolated, lonely and nervous during the first few weeks of the pandemic. He expressed concern about not being 'technology smart' and the difficulties he had adapting to changes to the ways he did things, such as his shopping and banking. Ms Leonie Jackson also gave evidence of a deaf blind woman in her 60s, Fiona, who was left without any means of communication for 6 weeks in her aged care facility. Ms Jackson explained that Fiona was not informed of the reasons for the lockdown, why her support workers were unable to visit her, or why she was unable to leave the facility.

The Disability Royal Commission has continued to use the lived experiences of people with disability and their family, carers or advocates to expose the flaws of the system, which is only further exacerbated during the ongoing COVID-19 pandemic.

The hearing highlighted that the pandemic "exact a terrible toll" on the disability sector, largely hidden from the general Australian community. Commissioner Sackville remarked:

"We have heard people with disability experiencing the sudden loss of essential support services, an absence of clear and consistent information in accessible form essential to their health and wellbeing; an inability to access health care, personal protective equipment and even the basic necessities of life such as food and medication; we've heard of isolation from the community, from friends and family and from social networks; exposure to a heightened risk of domestic violence; stress and anxiety associated with exposure to the virus; inadequate measures for the protection of people with disability, and uncertainty about how to survive in the face of disruptions to care and essential services, sometimes leading to worsening mental health."

Key take-away points for providers

A few practical takeaways may be considered by disability service providers:

1. Providing consistent and up to date information about COVID-19 is critical to helping affected people understand what their rights are during this period. Providing a steady flow of information may ease the fear and concern of people with disability, and help build their understanding as to why the pandemic has impacted their situation;
2. Providers should be aware of what relevant government measures are in place in their jurisdiction;
3. Developing Emergency Action Plans may assist the wellbeing of people with disability during COVID-19. Associate Professor Michelle Villeneuve, Researcher from the Centre for Disability Research and Policy, gave evidence about how implementing such plans is shown to enhance welfare of people with disability;
4. Developing schemes for systematic collection and reporting of data on the impact of COVID-19 on all people with disability and on disability support workers is advantageous;
5. Further, maintaining strong internal auditing of disability services to ensure operations are being safely conducted in the time of the pandemic is likely beneficial;
6. Another recommendation is to implement measures to address the increased isolation experienced by people with disability in closed residential settings during the pandemic;
7. Providers should be mindful of their employees and ensure that appropriate workplace programs are available. The hearing found that many carers have felt "overworked, exhausted and forgotten" during the pandemic which may be responded to by providers through employee assistance programs; and
8. Providers should be aware that the pandemic has resulted in an increase of violence against women with disability. Providers should ensure correct practices are in place within their organisation, for example, via complaints mechanisms.

Commissioner Sackville directed Counsel Assisting to make submissions on a number of critical matters, including whether:

- systemic changes are needed in the approach taken to suspected COVID-19 or positive COVID-19 tests among residents in supported residential accommodation settings;
- specific consideration needs to be given to ensuring the continued access of official community visitors, or advocates to people with disability and supported residential care during the pandemic; and
- the disability support workforce should be recognised as an essential workforce and whether disability support workers should be entitled to pandemic leave, paid pandemic leave, during the current emergency.

The Disability Royal Commission has continually made clear that it wishes to receive submissions from the public,

including providers, on a number of issues. Should any provider wish to have assistance with this, or other related issues, please contact Piper Alderman.

In his closing remarks, Commissioner Sackville stated that the evidence has

“shed a piercing light on the impact of COVID-19 and of the associated stringed measures to contain it on people with disability in this country.”