

Article Information

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Royal Commission Milestones: Disability, Aged Care and Mental Health

On 10 February 2021 the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission) released its Third Progress Report. The Report describes the progress of the Royal Commission over the months July to December 2020 across seven key areas which are summarised below.

Of note, the Royal Commission has revealed that it requested a 17 month extension on 30 October 2020 such that it would be required to deliver its final report and recommendations by 29 September 2023 instead of by 29 April 2022. The decision as to whether an extension will be granted, and if so the length, is still pending.

The Report also outlines the hearing schedule for 2021, a summary of which is found at the end of this note.

This insight provides a summary of the key areas covered in the Report, as well as noting some of the key takeaways in light of the recent release of the Final Reports from the Royal Commission into Aged Care Quality and Safety and the Royal Commission into Victoria's Mental Health System.

Key Activities

Here the Report covers the resumption of public activities in a COVID-safe way, describes the release of the Royal Commission's Interim Report on 30 October 2020, the fact that four public hearing reports were published and that it has not only published a report of Public Hearing 5 (Experiences of People with Disability during the Ongoing COVID-19 Pandemic) but it has also made its recommendations in light of that hearing.

Public Hearings

As well as the hearing concerning the COVID-19 Pandemic, there were also five other public hearings conducted during the period July - December 2020. They concerned:

- Psychotropic medication, behaviours support and behaviours of concern;
- Barriers to accessing a safe, quality and inclusive school education and life course impacts;
- The experiences of First Nations People with disability and their families in contact with child protection systems;
- Pathways and barriers to open employment for people with disability; and
- Education and training of professionals in relation to people with cognitive disability.

Community Engagement

The Report describes the Royal Commission's engagement in five key respects:

- Engagement with First Nations People with disability;
- The disability strategic engagement group that the Royal Commission has established;
- Engagement with culturally and linguistically diverse people with disability;
- Engagement with priority groups; and
- Engagement with advocacy groups.

Submissions

The Report also outlines the progress that has been made in the Royal Commission's receipt of and consideration of submissions received during the period July 2020 to December 2020. During this time the Royal Commission received 669 submissions. As well as some key statistical information the Report identified the following themes:

- Of those who had told the Royal Commission of their experiences 40% said they experienced violence and abuse, 55% said they experienced systemic abuse or neglect, 32% said they experienced neglect and 9% said they experienced exploitation.
- People with disability have told the Royal Commission that it can be difficult to report violence, abuse, neglect or exploitation, because they feel their complaints are often unheard or do not receive appropriate action.
- Of the submissions that reported one or more experiences of violence, abuse, neglect or exploitation, 104 (39%) discussed making a complaint of these, the vast majority told the Royal Commission they did not receive a satisfactory outcome and approximately 1 in 2 told the Royal Commission there was no action taken. Approximately 1 in 10 told the Commission they received satisfactory outcome.

The Royal Commission has suggested that many submissions describe system-wide practices of maltreatment, inaction and substandard care. Examples of "systemic neglect" included repeated instances of inadequate or inappropriate health or medical treatment, limited educational opportunities and supports, a lack of accessible housing of a proper standard, and difficulties accessing legal support and representation.

Private Sessions

The Report identifies emerging themes from private sessions held between July and December 2020. These include:

- The Royal Commission reports that it has been told that patients with disability may not be offered the same level of care as patients without disability;
- Parents and other supporters of people with disability have recounted experiences of unexplained bruising on, or other injury to, people with disability residing in care. The Royal Commission has been told that there is a lack of proper training for carers;
- Some people who provide support to people with disability as carers or in their professional capacity have told the Royal Commission they are afraid to report abuse or neglect in case of reprisal or the loss of employment;
- The Royal Commission has been told that there is a lack of appropriate service provision for people with disability in rural and remote areas and that that is particularly the case in rural First Nations communities; and
- People with disabilities often face issues with inaccessibility and discrimination in their workplaces and some have said that they have to repeatedly ask for accessible facilities to be provided.

Issues Papers

The Royal Commission released the following three issues papers between 1 July and 31 December 2020:

- Safeguards and quality, released on 18 November 2020;
- Violence and abuse in the home, released on 2 December 2020; and
- Promoting an inclusive society, released on 4 December 2020.

These issues papers, as with those previously published by the Royal Commission, have sought responses from both individuals and organisations. The Royal Commission will accept responses for its issues paper on promoting an inclusive society until 4 April 2021 and can be submitted either electronically, in writing by post, by telephone or by either a video or audio recording.

Research

Research conducted by the Royal Commission is an important part of its activities. The Report recaps that in its Second Progress Report it provided detail on 5 research projects, which are published on the "Research Program" section of its website. The Report proceeds to recount that it has since published an additional 2 research reports, namely:

- Purple Orange (2020), Examining Language and Vocabulary Used by People Living with Disability
- Australian Government Solicitor (2020), Report on the Key Elements of the Legislative Framework Affecting People with Disability

The Report outlines upcoming work that has been commissioned to:

- conduct a rapid review of the published literature to understand factors that increase and decrease the risk of violence against an abuse, neglect and exploitation of people with disability; and

- understand the experiences of violence, abuse, neglect and exploitation among young people with intellectual and/or psycho-social disability.

The Royal Commission has also indicated that its research program includes projects to:

- Examine how police respond to people with disability;
- Analyse suspensions, exclusions and restrictive practices against students with disability in Australian schools;
- Consider whether a reporting and complaint systems can be improved;
- Determine the extent to which the *Disability Discrimination Act 1992* (Cth) operates effectively for people with disability and whether it should be revised to expand the protection available to people with disability; and
- Understand the experiences of First Nations people with disability and children with disability in the Child Protection System.

Takeaways

The Report highlights the substantial amount of work still ahead of the Royal Commission, with responses to issues papers, undertaking research and conducting further hearings. In its Report, the Royal Commission confirmed the following schedule of public hearings:

- 24 March 2021: Pathways and barriers to open employment with disability – oral submissions (Sydney)
- Week of 19 April 2021: NDIS and service providers (Sydney)
- Week of 24 May 2021: NDIS and service providers (Sydney)
- Week of 21 June 2021: First Nations and out-of-home care (Brisbane)
- Week of 26 July 2021: Restraints in education (Brisbane)
- Week of 16 August 2021: The health and safety of women and girls with disability (TBC)
- Week of 27 September 2021: Employment (TBC)
- Week of 1 November 2021: To be advised (TBC)
- Week of 6 December 2021: Disability support workforce issues (TBC).

Further, the recent release of the Final Reports from the Royal Commission into Aged Care Quality and Safety and the Royal Commission into Victoria's Mental Health System have identified a number of areas that may impact on the Royal Commission's inquiry, including in relation to restrictive practices (physical and chemical) and the training of people providing care.

In particular, the Royal Commission into Aged Care Quality and Safety has made a recommendation that, following the conclusion of the Royal Commission, the Australian Government should consider the applicability of any findings concerning restrictive practices and whether further legislative reforms would be required to implement such recommendations as they may assist service delivery in aged care. As is clear from the most recent report, and the Royal Commission's Interim Report, it is evident that restrictive practices will be the subject of further investigation by the Royal Commission.

Piper Alderman continues to monitor the progress of the Royal Commission. Please contact us if you wish to subscribe to our updates. Our experienced team is available to assist with any queries providers may have in respect of the matters addressed in the Report, or otherwise.

