Ms Megan Mitchell

National Children’s Commissioner

GPO Box 5218

SYDNEY NSW 2001

16 June 2015

Dear Commissioner:

**RE: EXAMINATION OF CHILDREN AFFECTED BY FAMILY AND DOMESTIC VIOLENCE**

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

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

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

People with Disability Australia has extensive expertise in the area of violence, including domestic violence, against children and adults with disability. As a national peak representative body for people with disability, we provide policy advice to numerous inquiries related to violence, including violence against children with disability. Recent examples include the Senate Inquiry into Domestic Violence, the Senate Inquiry into Violence, Abuse and Neglect of People with Disability, and the Third Action Plan for the National Framework for Protecting Australia’s Children.

We were partners in Women with Disabilities Australia’s *Stop the Violence* project, which explored sexual assault and domestic violence responses to women and girls with disability. Additionally, we have been funded as a Royal Commission Community-Based Support Service by the Department of Social Services to provide individual advocacy to people with disability who are affected by the Royal Commission into Institutional Responses to Child Abuse

PWDA is pleased to provide the following information regarding the issues of family and domestic violence and disability, especially in relation to children. We use the proposed questions as a basis for our response.

1. What are the definitional issues in relation to family and domestic violence affecting children?

There are a range of issues in relation to the definition of family and domestic violence for people with disability in general. Some of these issues also apply to children with disability, but there are a range of other complexities for this cohort.

First, the focus on family and domestic violence primarily remains on adult intimate partner violence. While it may be recognised that children are heavily impacted by witnessing violence, it is also important to acknowledge the high rates of adult perpetration of violence against children. This is particularly significant for children with disability, who are at 3.4 times the risk of experiencing violence compared to other children.[[1]](#footnote-1)

Second, in analyses of family and domestic violence, the disability of a child is often positioned as a ‘risk factor.’[[2]](#footnote-2) This unacceptably blames the child for adult violence perpetrated, whether against the child or another adult. In doing this, disability is treated differently from other intersections such as Aboriginality, or diverse cultural and linguistic backgrounds. PWDA has strongly argued that the risk is not inherent to the child or their impairment, but arises through systemic societal failures to provide adequate and appropriate support to the child and the family as a whole, whether this be in the form of service provision or ensuring accessible and inclusive communities.

Third, even where children may be understood as direct victims of violence, it is frequently experienced in out of home settings including specialist and mainstream institutions such as Schools, respite, out of home care and so on. While violence in some of these settings is not considered domestic violence, PWDA would argue that there are circumstances where children with disability consider service settings such as these as ‘domestic’ or a ‘home.’ This means that the impact of violence in these settings is far higher than it is in other institutional settings, due to its inescapability, and the devastating impact it has on relationships of trust and attachment.

Yet this violence is rarely characterised as domestic violence. This also means that the injustice of removing children from one violent setting (the home) to another (out of home care) is not fully acknowledged, or grappled with as part of the impacts of ‘family and domestic violence.’

1. What do we know about the prevalence and incidence of family and domestic violence affecting children, including who is involved in family and domestic violence events?

The prevalence and incidence of family and domestic violence affecting people with disability is severely under-researched in Australia, and this impacts on data regarding domestic and family violence against children with disability as well. The figure that children with disability are at 3.4 times the risk of violence compared to other children is derived from a number of predominantly international studies due to the scarcity of Australian sources. Considerable research must be done in Australia in order to begin to fill this knowledge gap and to build a more accurate picture of the forms and contexts of violence that children with disability experience and to what extent.

1. What are the impacts on children of family and domestic violence?

The impacts on children of family and domestic violence can be severe. Trauma impacts may damage self-esteem, undermine attachments to parents and others, and result in PTSD if not responded to adequately. All of these can result in psychosocial disability, which can have long-term impacts around the stability of employment, relationships, housing and so on. Additionally, specifically for children with disability, it can exacerbate the impacts of developmental ‘delays,’ and impede children’s acquisition of various skills and abilities.

Unfortunately, however, there are a range of other impacts, which often have to do with the responses to domestic and family violence. Children may be removed from their primary caregiver, allegedly in their own best interests, when that caregiver is a victim of family or domestic violence. This can have long-lasting detrimental impacts on that relationship, and on the child’s attachments and development.

Children of parents with disability are removed at a rate 10 times that of other children, and in many cases as a first rather than a last option.[[3]](#footnote-3) Even where parents, especially mothers, with disability have been the victim of domestic and family violence, they are frequently characterised as ‘inadequately protective’ of their children’s welfare, despite not being perpetrators. This is frequently due to implicit normative standards regarding parents, rather than indicating any risk to child welfare.[[4]](#footnote-4)

Not only does this compound the injustice of domestic and family violence, and blame the victim of violence for the violence, but the risk of removal of children also results in parents with disability being hesitant to call Police or access other services to support them. In this respect, aspects of the Child Protection system can be understood to undermine the safety of children.

Children with disability who are removed from their parents also often experience institutionalisation which can be ongoing throughout their lives. The experiences of children with disability as they become adults can be less than ideal: in many cases, those under the guardianship of the state may not be provided with adequate supports to develop independent living skills, to access relevant services, or have the opportunity to participate in mainstream educational, cultural or social activities with peers.

1. What are the outcomes for children engaging with services, programs and support?

Services, programs and supports can obviously increase positive outcomes for children with disability, where their support needs, and any trauma impacts, are well-recognised and addressed.

However, services, programs and supports often treat children with disability differently to other children. In some cases, children may experience violence within these settings. This can impede children with disability learning to recognise violence, and learning that it is a crime and a violation of their rights. When children experience violence at the hands of a practitioner they are expected to trust, it can impede adequate attachments and mislead them about what violence is. Additionally, some of the violence perpetrated by practitioners may be in response to children’s ‘misbehaviour,’ without recognition that these behaviours may result from trauma. This can worsen the impacts of trauma and result in further damage to children’s attachments.

In specialist settings, ‘restrictive practices’ such as solitary isolation (seclusion), and physical and chemical constraint (restraint) may be used as a response to ‘challenging behaviours’. Unsurprisingly, ‘challenging behaviours’ may result from trauma, or be expressions of protest about the setting, but this is rarely recognised. This can mean that the supports provided to children experiencing trauma may be inadequate and inappropriate, and may compound rather than address their trauma. Additionally, where restrictive practices are used on others within a residential or institutional setting, this may mislead children about the appropriateness of violent behaviours, and about what treatment may be in breach of their rights.

Children with disability often face impediments engaging with mainstream services, programs and support. This can manifest, for example, as a failure to grapple with the causes of ‘challenging behaviours’ in schools, and lead to children being caged, placed in solitary confinement or tied down. Importantly, because these ‘mainstream’ services are not specialist disability services, their use of these practices is not subject to authorisation, regulation or guidance.

1. What are the surveillance and data gaps/needs in relation to children affected by family and domestic violence?

The failure to disaggregate and/or include children with disability in various pieces of research and data collection is acknowledged to be one of the key issues in relation to the National Framework for Protecting Australia’s Children. Especially in the nationally representative research undertaken thus far under the Framework, in most cases this data has not yet been disaggregated by disability. This means that the specific experiences and needs of children with disability remain obscure, limiting evidence for adequate policy responses.

Additionally, sampling techniques have excluded settings where children with disability are overrepresented, such as medical or psychiatric facilities, juvenile justice facilities, supported accommodation placements and out-of-home care provided by disability service providers. It is also unclear that the methodology is in line with best research practice for engaging with children and adults with disability, such as ensuring the presence of supports, enabling the use of interpreters and/or assistive communication devices.

The Australian Bureau of Statistics (ABS) Personal Safety Survey (PSS), generally understood to be the most accurate source of national data about prevalence of violence, does not disaggregate by disability, Indigenous status or mental illness, and only recruits adults currently residing in private dwellings, excluding institutional residential settings. It also excludes those who might require some form of communication support – such as some people with intellectual disability, some Deaf people, some people with hearing impairment, and people from culturally and linguistically diverse backgrounds. Additionally, it frames its questions around intimate partner violence, thus excluding the relationships in which children with disability experience violence, which may be at the hands of parents or caregivers.

Similarly, although the General Social Survey (GSS) does disaggregate by disability status, it also excludes institutional residential settings and children. The Disability, Ageing and Carers (DAC) survey does not address any issues around violence, abuse or neglect, and relies on carers answering on behalf of people with disability. In all cases, these surveys exclude those who live in remote areas, which means that Aboriginal and Torres Strait Islander people with disability living in these areas (a cohort who may be at particular risk) are excluded from the data.

The ABS, as part of the National Plan to Reduce Violence Against Women and their Children, has also investigated the data challenge in relation to domestic and family violence, and sourced alternative administrative sources of data about domestic and family violence. However, the complexity of the situation in relation to children – specifically in relation to children as direct victims of violence, and the impacts of witnessing violence – makes no appearance. Additionally, the Directory of Family and Domestic Violence excludes a number of administrative data sources which may assist in gaining a better sense of the rates of domestic and family violence against children with disability.

The National Disability Abuse and Neglect Hotline has been in operation for over a decade, funded by the Department of Social Services. The data collected here is not systematic, nor representative. Nonetheless, it is one of the only sources of data for that cohort, and particularly important, as they are excluded or only partially included in other data sets.

The National Disability Advocacy Program is another potential source of data in this area. Disability advocacy organisations from across Australia provide detailed data to the Department of Social Services. This information is not analysed or reported on in a way that could inform evidence-based research and policy development.

There are in addition other sources of data that could be examined, some of them state and territory based, for example police reports, reportable conduct data and child protection reports. Additionally, enhancing support for qualitative research into this issue is also important in the development of evidence-based policy.

Clear disaggregation of data by disability, and methodologies and sampling techniques that are inclusive of children and parents with disability, including those in residential or institutional settings, and those who may require support to participate in research, are essential to ensuring that the protections against violence which are every person’s right are extended to children and adults with disability. Such modifications would assist researchers, policy makers and others, to ascertain the problems, and find solutions.

PWDA is would be pleased to provide any further information regarding these matters. Please feel free to contact Dr Jess Cadwallader, Advocacy Projects Manager, Violence Prevention, on jessc@pwd.org.au or (02)9370 3100.

Sincerely,



**DR JESSICA ROBYN CADWALLADER**

**Advocacy Project Manager, Violence Prevention**

1. S Robinson (2012) *Enabling and Protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability* Children with Disability Australia. [↑](#footnote-ref-1)
2. *Protecting Australia’s Children is Everyone’s Business: National Framework for Protecting Australia’s Children 2009-2020* (2009) Department of Social Services, Government of Australia. [↑](#footnote-ref-2)
3. Australian Cross Disability Alliance, *Submission 142* to the Senate Inquiry into Domestic Violence. See <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Domestic_Violence> [↑](#footnote-ref-3)
4. B Carter (2013*) Whatever happened to the village? The removal of children from parents with a disability: Report 1: Family law – the hidden issues* Office of the Public Advocate, Victoria [↑](#footnote-ref-4)