



16 March 2023

RE: Inquiry into Current and Proposed Sexual Consent Laws

Dear Committee Secretary,

Inclusion Australia is the national Disability Representative Organisation representing the rights and interests of Australians with an intellectual disability and their families. Founded in 1954, our mission is to work to make sure people with an intellectual disability have the same opportunities as people without disability. We have state members in New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia.

Since September 2021 we have had a Northern Territory team based in Darwin. Our work in the Northern Territory is informed by a Local Steering Group that includes representatives from advocacy and other territory-based organisations.

We thank the Senate Standing Committee for the opportunity to submit to the Inquiry into current and proposed sexual consent laws in Australia.

We wish to make some Recommendations for what we believe should be a focus for the Inquiry, given the **prevalence of sexual violence experienced among people with an intellectual disability** compared to the general population and the **lack of accessible and ongoing consent education** available to people with an intellectual disability.

We hope it will assist in ensuring the experiences of people with an intellectual disability are prioritised during the inquiry process and included in the Final Report.

A note on accessibility

When published, we ask that the Final Report be made available in Plain Language and Easy Read formats. This will ensure that our community can access the Final Report, engage with its findings, and understand how any future changes to legislation will affect them. We thank the Senate Standing Committee in advance for this.

Please also note Recommendation 3 for more detail on accessibility.

Recommendations

Given the data and research that shows the prevalence of sexual violence experienced among people with an intellectual disability, plus the lack of accessible Relationships and Sexuality Education (RSE) available to people with an intellectual disability discussed below, Inclusion Australia recommends the following be prioritised during the Inquiry:

1. Specifically consider the experiences of people with an intellectual disability when assessing how changes to sexual consent legislation would impact people in different jurisdictions, with particular consideration given to intersectionality such as gender and identity.
2. Investigate how national harmonisation of legislation could support educational efforts in Australia, especially to enable and prioritise mandatory, ongoing and accessible RSE that recognises the importance of trusted relationships for the delivery of consent and sexual rights education to people with an intellectual disability.
3. Ensure that the Final Report, **plus any changes to legislation** that come about as a result of the Inquiry, are made available in accessible formats such as Easy Read to ensure people with an intellectual disability can be aware of what any legislative changes will mean.

Discussion

The following section discusses two key issues relevant to the Inquiry, which form the background to our Recommendations above.

1. Prevalence of sexual violence experienced by people with an intellectual disability

It is well evidenced that people with disability experience sexual violence, abuse and harassment at significantly higher rates than people without disability. The Personal Safety Survey's (PSS)¹ most recent statistics show that since the age of 15, 21% of people with disability (764,729 people) reported experiencing sexual violence² compared to 10% of people without disability.³

The PSS data also shows important intersections between gender and disability type:

- Women with disability are twice as likely to report an incident of sexual violence over their lifetime than women without disability.⁴ Women with psychological and cognitive impairments⁵ experience very high rates of all types of violence, particularly sexual violence and emotional abuse.

¹ The PSS is a general population survey conducted by the Australian Bureau of Statistics (ABS) that collects detailed information about how people in Australia experience physical violence, sexual violence, intimate partner violence, emotional abuse by a partner and stalking.

It is important to note that while the PSS is a rich source of data, for various reasons it cannot capture the full scope of sexual violence (and other forms of violence) in the Australian community—and particularly the disability community—especially in relation to intersectional identities, backgrounds and disability types. For example, the PSS figures do not include violence or abuse associated with restrictive practices or breaches of human rights (e.g. denial of privacy, sexual expression or education).

² Australian Bureau of Statistics. (2016). *Personal Safety, Australia*. ABS.

<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/2016>.

³ Australian Bureau of Statistics. (2016). *Personal Safety, Australia*. ABS.

<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/2016>.

⁴ 33% or 605,081 women with disability compared to 16% of women without disability.

⁵ 'Cognitive Impairment' is a term used by the Australian Bureau of Statistics. It refers to a combination of intellectual disability and head injury, stroke, or other brain injury.

- One in two women with psychological and/or cognitive impairment have experienced sexual violence in their lifetime.⁶

A limitation of the PSS data is that it does not collect data from people living in institutional care settings. Yet there is evidence suggesting that women with disability, and particularly those with an intellectual disability, who live in institutional and residential settings are highly likely to experience violence, particularly sexual violence.⁷

Rates of sexual violence experienced by lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) people with disability are also disproportionately high.⁸

Given the prevalence of sexual violence experienced among people with an intellectual disability, and particularly women and LGBTIQ+ people, it is crucial that the Senate Standing Committee specifically considers the experiences and needs of this group, particularly in view of important intersectional contexts such as gender and identity.

2. Impact of consent laws on accessible, ongoing consent education through Relationship and Sexuality Education (RSE)

When investigating the potential impacts changes to sexual consent legislation will have on consent education, we ask that the Inquiry consider how legislative changes could enable mandatory early-start and ongoing Relationships and Sexuality Education (RSE) as a critical pathway to safer and more empowered lives for people with an intellectual disability. This is also important to consider given the roll-out of mandatory sexual consent education in Australian schools from 2023.

Australia has a strong RSE curricula, yet it is often not delivered in full to mainstream classes, and often not at all to people with disability.⁹ There are myriad reasons for this, but some of the key barriers for people with an intellectual disability to accessing RSE include:

- Entrenched historical prejudices that characterised people with an intellectual disability as infantile, non-sexual beings, or people who will never have an intimate relationship
- Educators are generally not trained to deliver RSE to mainstream classes, let alone people with an intellectual disability
- When people with disability are included in RSE, they report not understanding the material as it does not meet their learning style

⁶ Australian Bureau of Statistics. (2016). *Personal Safety, Australia*. ABS.

<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/2016>.

⁷ Australian Institute of Health and Welfare. (2022). *People with disability in Australia*. Retrieved from <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia>

⁸ William, L. and Mann, R. (2018). *The Everyday Experiences of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) People Living with Disability*. La Trobe University. Retrieved from:

https://www.latrobe.edu.au/_data/assets/pdf_file/0008/929861/GAFLA-Report-Final-Version.pdf

⁹ SECCA. (2020). *SECCA's Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*. Retrieved from: <https://www.secca.org.au/wp-content/uploads/2021/01/SECCA-Submission-to-the-Disability-Royal-Commission-October-2020.pdf>

- There is not enough priority given to ensuring RSE takes place in an ongoing way through trusted relationships.¹⁰

Evidenced-based, accessible and ongoing RSE is a human right.¹¹ It is crucial that RSE is delivered to everyone in a way that makes sense to them, and that it takes place through trusted relationships. This means that family members, teachers, carers, and other supporters are also taught and supported to facilitate ongoing learning in a safe, human-rights based and person-centred context.

Protective Behaviour Education (PBE) is inherent in RSE and is central to consent education more broadly. It focusses on body ownership and builds capacity for self-determination, making safe and informed choices, human rights and being able to recognise and speak up when something does not feel safe.

As well as being a human right, research is very clear that comprehensive RSE—which includes PBE—is essential to developing a person’s health, well-being and dignity; empowering them to develop respectful social and sexual relationships. It is also well evidenced that RSE and PBE are vital preventative measures that are shown to better protect all people—including people with an intellectual disability when delivered in an ongoing, accessible way through trusted relationships—from experiencing violence, abuse and exploitation.¹²

We thank the Senate Standing Committee for the opportunity to submit to the Inquiry and we hope our Recommendations will assist in ensuring that the experiences of people with an intellectual disability are prioritised during the Inquiry process and included in the Final Report.

We welcome any further opportunity to discuss the issues raised in this letter in the future.

Kind regards,



Catherine McAlpine
Chief Executive Officer

¹⁰ SECCA. (2020). *SECCA’s Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*. Retrieved from: <https://www.secca.org.au/wp-content/uploads/2021/01/SECCA-Submission-to-the-Disability-Royal-Commission-October-2020.pdf>

¹¹ UNCPRD. (2016). Article 24—Education. Retrieved from: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of%20%20persons-with-disabilities/article-24-education.html>

¹² Marson, K. (2021). *Ignorance is not Innocence: Implementing Relationships and Sex Education to safeguard sexual wellbeing*. University of Queensland. Retrieved from: <https://stories.uq.edu.au/policy-futures/2021/implementing-relationships-and-sex-education-in-schools/index.html>