



COMMISSION FOR CHILDREN
AND YOUNG PEOPLE

Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

Violence and abuse of people with disability at home

CCYPD/21/6917

The Commission respectfully acknowledges and celebrates the Traditional Owners of the lands throughout Victoria and pays its respects to their Elders, children and young people of past, current and future generations.

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1. Introduction

The Commission for Children and Young People (Commission) welcomes the opportunity to make this submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Royal Commission). This submission responds to the Royal Commission's issues paper about violence and abuse of people with disability at home (Issues Paper).

The Commission's previous submission to the Royal Commission in March 2020 (2020 Submission) is relevant to this discussion paper. A copy is provided at **Attachment A**. In our 2020 Submission we outlined the risks to children and young people with disability involved with the child protection, out-of-home care and youth justice systems as well as service system gaps and failures.

This submission sets out additional information about the Commission's work relevant to the issues paper since March 2020. It also includes confidential case studies at **Attachment B** that demonstrate the significant and prolonged risks and experiences of violence and abuse at home faced by vulnerable children and young people with disability and the critical service system failures in protecting them.

1.1 About the Commission

The Commission is an independent statutory body that promotes improvement in policies and practices affecting the safety and wellbeing of Victorian children and young people.

The Commission's statutory functions include:

- providing independent oversight of Victoria's child protection, out-of-home care and youth justice systems including monitoring reports of serious incidents
- conducting inquiries into services provided to any child or young person who has died and who was involved with child protection in the 12 months before their death
- conducting individual, group and systemic inquiries into services provided to children and young people
- regulating and supporting organisations that work with children and young people to prevent abuse, respond appropriately to allegations of child abuse and make sure organisations have child-safe practices, including by administering the Child Safe Standards and Reportable Conduct Scheme.

1.2 Overview of issues

This submission is informed by insights and expertise arising from the Commission's oversight, regulatory and inquiry functions.

As recognised in the Issues Paper, violence and abuse can happen in all types of homes and accommodation.¹ This submission focuses on the experiences of children and young people with disability involved with Child Protection and children and young people with disability living in out-of-home care, including residential care, kinship and foster care. This submission also discusses the impact of COVID-19 restrictions on children and young people with disability in Victoria.

¹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, [Issues Paper: Violence and abuse of people with disability at home](#), 2 December 2020, p 1.

In the Commission's experience, the safety of children and young people with disability is compromised by a number of overarching issues, including:

- fragmentation between services and systems (including Child Protection and the NDIS)
- attitudes and ingrained prejudice that enable an ongoing acceptance of harmful conduct towards children and young people with disability
- lack of voice and opportunities for participation by children and young people with disability on issues that impact them
- lack of visibility and focus on children and young people with disability in the policy space, even where the issue being addressed has a serious impact on them
- poor data collection, particularly in the out-of-home care system.

Through our oversight, regulatory and inquiry functions we observe harrowing accounts of abuse and neglect of children and young people with disability within the systems that are intended to keep them safe. These are not one-off isolated incidents, but systemic failings. The Commission continues to identify failings of policy, practice, process and institutional cultures which lead to the experiences of children and young people with disability being hidden, overlooked or deprioritised. Urgent reform is needed to better equip the service system to recognise the unique needs of children and young people with disability, to identify risk and take swift action to address it, and to institute processes to escalate matters when needed.

1.3 The specific needs of Aboriginal children and young people with disability

Many of the issues raised in this submission disproportionately impact Aboriginal children and young people, who experience multiple forms of discrimination and are significantly over-represented in the child protection and out-of-home care systems.

In 2020, Aboriginal children and young people accounted for almost a quarter of all children and young people on care and protection orders in Victoria.² In 2019–20 approximately one in four children in out-of-home care in Victoria was Aboriginal, and Aboriginal children and young people were 21 times more likely to be in out-of-home care than non-Aboriginal children and young people.³

Aboriginal children and young people are more likely to have a disability,⁴ which can compound their vulnerability in these settings. Although the exact proportion of Aboriginal children and young people with disability in the child protection and out-of-home care systems is unknown, due to incomplete data collection, estimates are high.

Aboriginal children and young people with disability can face unique challenges. These challenges can be magnified by systemic oversights and the cumulative impacts of marginalisation and discrimination on the basis of race and disability. Responding to the

² At 30 June 2020 there were 14,947 children and young people aged 0–17 years on care and protection orders in Victoria, of whom 3,451 were Aboriginal children and young people: Productivity Commission, Report on Government Services 2021: 16 Child protection services, Productivity Commission, Australian Government, 2021, data table 16A.2.

³ In 2019–20 there were 2,450 Aboriginal children and young people in out-of-home care, of a total of 9,095 children and young people in out-of-home care: Productivity Commission, Report on Government Services 2021, data table 16A.2.

⁴ Australian Bureau of Statistics, [4433.0.55.005 - Aboriginal and Torres Strait Islander People with a Disability 2012](#), 2017; Department of Health and Human Services, [Korin Korin Balit-Djak: Aboriginal health, wellbeing and safety strategic plan 2017–2027](#), State of Victoria, 2017, p 15.

specific needs of Aboriginal children and young people with disability must be undertaken in a culturally-appropriate and holistic way that recognises and incorporates Aboriginal perspectives of health and disability, cultural practices, and familial and communal roles of caring.⁵

2. Children and young people with disability involved with Child Protection

Children and young people with disability involved with the child protection system may have multiple risk factors that increase the possibility of them experiencing abuse and neglect.⁶ Yet, the capacity of the system severely undermines its ability to adequately protect and care for the most vulnerable children and young people.

Our systemic inquiries have starkly highlighted the significant stress under which the child protection system operates.⁷ We have found that reports to Child Protection, investigations and substantiated cases of risk to children, have all approximately tripled in the ten years between 2008–2009 and 2017–2018. However, expenditure on child protection services, despite significant recent investment by the Victorian Government, has not kept pace with demand.⁸

Within this context, and despite multiple inquiries and recommendations for reform, the Commission has identified a number of service system issues that continue to persist and present ongoing risks to children and young people with disability.

2.1 Service system issues identified in the Commission's 2018 inquiry

In 2018, the Commission examined previously completed child death inquiries involving children and young people with complex medical needs and/or disability (2018 Inquiry). Our 2020 submission⁹ outlined the findings from this inquiry relevant to the Royal Commission, namely:

- **Inadequate risk assessments** – In many cases Child Protection's assessments of risk to children and young people were inadequate and demonstrated a lack of understanding of the specific risks faced by children and young people with disability.
- **Fragmentation between systems** – There was poor communication, information-sharing and coordination between Child Protection and disability services. In some cases, this resulted in neither system having a complete understanding of the risk of harm to the child or young person.
- **Lack of engagement** – Child Protection had very limited direct contact with children and young people with disability – it was rare for Child Protection to communicate directly with the child or young person when assessing risk to them.

⁵ Angeline Ferdinand, Libby Massey, Jennifer Cullen et al, [Understanding Disability Through the Lens of Aboriginal and Torres Strait Islander People - Challenges and Opportunities](#) (Centre for Health Policy, Melbourne School of Population and Global Health, The University of Melbourne, May 2019).

⁶ Kirsten Stalker and Katherine McArthur, 'Child abuse, child protection and disabled children: A review of recent research' *Child Abuse Review*, 2012, 21: 24–40, DOI: 10.1002/car.1154.

⁷ Commission for Children and Young People, [In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019; Commission for Children and Young People, [Lost, not forgotten: Inquiry into children who died by suicide and were known to Child Protection](#), 2019.

⁸ Commission for Children and Young People, [In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019, p 77.

⁹ Commission for Children and Young People, [Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), March 2020, Attachment A, pp 3–5.

- **Insufficient support** – Not all children and young people with disability and their families were connected to the services they needed to address the risk of harm and developmental and behavioural challenges they encountered. Some families reached ‘crisis point’ because they did not receive the services they needed.

2.2 Recent issues in child death inquiries

Sadly, through our child death inquiries, we continue to identify several service system issues that present an unacceptable risk of violence, abuse and neglect of vulnerable children and young people with disability in the home.

Twelve child death inquiries completed between January 2020 and March 2021 involved a child or young person with complex medical needs and/or disability. In the majority of these cases, the Commission made findings demonstrating many of the same issues, reinforcing the need for reform. These included:

- **Under-assessment of risks** – In many cases, the Commission found that Child Protection under-assessed risks for children and young people. We found evidence of poor information gathering about disability and/or complex medical needs, inadequate consideration of vulnerability related to the child or young person’s experience of disability and/or complex medical needs, and inadequate assessment of parenting capacity, and capacity of other family members to care for the child. The Commission also found evidence of inadequate consideration of additional complex risk factors including in relation to the impact of family violence, and the risks of sexual assault, parental alcohol and drug use, and cumulative harm.
- **Premature case closure** – In several inquiries, we found that Child Protection prematurely closed cases at intake without adequate information, rationale or appropriate referral. In one case, Child Protection’s decision to close appeared to be based on inaccurate information. Delays at intake phase can also lead to children and young people being exposed to ongoing risks. In one case, a report to Child Protection was not transferred from intake to investigation phase for almost a month leaving the child and family with limited engagement and intervention.
- **Inadequate case management** – The Commission also identified evidence of inadequate case management including examples where Child Protection did not take required action to address concerns, failed to ensure a child had a responsible guardian to make decisions and failed to initiate contact with relevant health professionals to understand a child’s health and medical needs.
- **Lack of collaboration** – Some inquiries demonstrated a lack of collaborative practice between services and no agency leading case coordination, even when it was identified that case coordination was needed. The lack of appropriate case management impacted children and young people’s safety and wellbeing, as their support needs were not adequately met.
- **Lack of appropriate and stable accommodation options** – The inquiries included examples of children and young people with disability and/or complex medical needs being placed in several short-term and respite placements that were unable to meet their needs.
- **Limited involvement in planning and decision-making** – The Commission identified examples of poor engagement by Child Protection with children with specific communication support needs. In these cases, the children were not provided with the opportunity to express their views during Child Protection’s involvement.

The confidential child death inquiry case studies at **Attachment B** illustrate the significant and prolonged risks and experiences of violence and abuse at home faced by vulnerable children and young people with disability and the critical service system failures in protecting them.¹⁰

The Commission has also identified examples of appropriate practice through child death inquiries. Where the Commission identified examples about positive service system responses, they involved:

- **Appropriate assessment by Child Protection** – This included good practice during Intake and Investigation phases and involved regular contact with parents and children, regular liaison with professionals, comprehensive information gathering, and considerate risk assessment and decision making.
- **Collaborative practice** – This included collaboration between Child Protection and a range of professionals including health, disability and child and family services, focusing on responding to and prioritising the child's health, safety and wellbeing.
- **Promoting the child's best interests** – The Commission also identified examples of services, including a school and disability advocacy service, providing effective advocacy on issues impacting health, development and wellbeing.

2.3 Other recent issues raised

The Commission also responds to a wide variety of concerns from the community, mostly about the safety and wellbeing of children and young people known to child protection. In the 12 months to April 2021, 72 of these concerns received by members of the public related to issues concerning children and young people with disability. This is 17 per cent of all concerns heard by the Commission during that period.

Service system gap for vulnerable young people aged 17 years

Sometimes the concerns raised highlight systemic barriers facing children and young people. For example, information provided to the Commission raised concerns about the gap in service delivery for children and young people aged 17 years with disability due to age-related eligibility restrictions for services between Child Protection (in which children and young people aged 17 years are not captured by all definitions of a child) and other systems that only work with adults aged 18 years or over.

Recently, the Commission received distressing concerns raised by senior personnel in specialist schools who described many cases of young people experiencing severe neglect and harm, for whom they have been unable to obtain child protection intervention.

The Commission understands that consideration is being given by the Department of Families, Fairness and Housing to addressing this legislative gap.

Inquiry into services provided to vulnerable young people

The Commission may also conduct inquiries about the safety or wellbeing of an individual or a group of vulnerable children or young people. The inquiry must be about services provided, or not provided, to the vulnerable child or young person. These inquiry reports are provided to the Minister for Child Protection and the Secretary of the Department of Families, Fairness

¹⁰ Attachment B is provided in confidence for the purpose of informing the Commissioners' considerations and is not for further distribution.

and Housing, and any other relevant Ministers. They are not public documents, but we may sometimes publish de-identified summaries of these inquiries in our annual reports.

The Commission recently established an inquiry into concerns about young people with disability. The young people appear to have been the subject of multiple reports to Child Protection over time but did not have an active case open despite considerable concerns for their safety and wellbeing in their current living circumstances. In one case, a young person was left in a room in appalling conditions and without many basic needs being addressed.

The Commission's inquiry is examining the young people's experiences of the service system and will focus on Child Protection's risk assessment regarding children and young people with a disability and the interaction between Child Protection, family services, disability support providers and any other relevant services.

2.4 Opportunities for reform

The Commission continues to monitor the Department of Families, Fairness and Housing's progress against recommendations made in our 2018 Inquiry regarding vulnerable children and young people with complex medical needs and/or disability. The Commission also promotes the implementation of these recommendations as persistent service system issues continue to be highlighted in more recent individual child death inquiries.

We note that ongoing efforts are still required in relation to:

1. **systematically collecting and reporting** on the number of children and young people with disability engaged in Child Protection to improve systemic intelligence, monitoring and outcome measurement
2. **training Child Protection workers** in undertaking risk assessments of children and young people with complex medical needs and/or disability
3. where NDIS funding is unavailable, providing a **model of care** that ensures funding and services are available and appropriate for children and young people who are vulnerable by virtue of their complex medical needs and or disability and their parent's capacity to care for them.

It is also the Commission's view that children and young people's safety from violence, abuse and neglect at home requires:

4. **resourcing independent advocates** who can work with, and inform, children and young people about the planning process and available supports
5. **creating an independent body** with a focus on vulnerable children and young people to advocate for their interests and receive complaints from them
6. **improved service delivery models** tailored to the specific needs of children and young people with disability and or complex medical needs
7. **improved collaboration** between service providers working with children and young people with disability and/or complex medical needs.

3. Children and young people with disability in out-of-home care

Children and young people with disability involved with the out-of-home care system may have experienced trauma, abuse and/or neglect in the family home and they typically have multiple, intersecting, complex needs. The Commission has identified a number of service

system issues that continue to persist, despite multiple inquiries and recommendations for reform.

3.1 Service system issues identified in Commission inquiries

The Commission reiterates the following concerns previously outlined in our 2020 Submission and highlighted in *In our own words*, our 2019 systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system. Further discussion of these issues, including examples and evidence drawn from our monitoring, inquiry and regulatory functions is set out in our 2020 Submission.¹¹ Limited progress has been made to ameliorate these issues:

- **Poor quality data** – this is an ongoing issue: In 2019–20 there were, on a daily average, 9,225 children and young people living in out-of-home care in Victoria.¹² The number of children and young people with disability is unknown, due to incomplete data collection. At 30 June 2019 approximately 5.7 per cent of children in out-of-home care in Victoria were recorded as having a disability, 30.1 per cent were recorded as having no disability, and 64.2 per cent were recorded as ‘not stated’.¹³ Anecdotal advice from some providers of residential care facilities suggests the percentage of children with disabilities in that part of the system is well over 30 per cent. It is harder to estimate for children in kinship and foster care, which further reinforces the importance of proper recording. While recording of children with disability coming into the system may now be improving, without an audit of existing children in the system, the picture will still be very inaccurate for many years to come.
- **Significant safety risks in residential care** – Children and young people with disability face significant risks in out-of-home care settings, particularly residential care units.¹⁴ The Commission’s *In our own words* inquiry found that children and young people with disability and complex behaviour in an out-of-home care placement were more likely to end up in residential care.¹⁵ It also reported that complexity related to disability is a common driver of children younger than 12 entering residential care.¹⁶ During the inquiry consultations, children and young people told us that living in residential care was often violent and dangerous, often due to challenging behaviours of other children and young people.¹⁷ The inquiry found that ‘poor placement mix’ of children and young people – resulting from a lack of appropriate placement options for children and young people living with complex trauma – is a key contributor to their poor safety. Residential care units remain unsuitable for children and young people with complex needs associated with their disability.
- **Significant safety risks in contingency placements** – Contingency placements involve children and young people being accommodated in hotel rooms, serviced

¹¹ Commission for Children and Young People, *Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*, March 2020, Attachment A.

¹² Department of Health and Human Services, *Child protection and family services: Additional service delivery data 2019–20*, Victorian Government, 2020, p 2.

¹³ Australian Institute of Health and Welfare, *Child protection Australia 2018–2019*, 2020, Table S5.8.

¹⁴ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 176-178.

¹⁵ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 25, 41, 131, 144-145.

¹⁶ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 27, 155.

¹⁷ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 28, 171-173.

apartments, rental properties, residential units or short-term housing available through the Office of Housing.¹⁸ Contingency placements are inappropriate for children and young people with high levels of support needs and can present significant levels of risk to their safety. Yet a high proportion of children and young people in contingency placements are children and young people with disability and complex support needs. Through our *In our own words* inquiry we heard that a key driver in demand for contingency placements was children and young people with disability receiving insufficient support under the NDIS and a lack of capacity of residential care workers to effectively respond to children and young people with an intellectual disability and/or autism when presenting with challenging behaviours.¹⁹

- **Inadequate safeguards** – the Commission’s *In our own words* inquiry also identified other gaps in safeguards for children and young people with disability in out-of-home care. These included a lack of face-to-face contact with a known (allocated) worker;²⁰ inconsistent contact with family and other supports;²¹ insufficient support for kinship and foster carers;²² and an inaccessible complaints mechanism.²³
- **Highest proportion of reportable conduct notifications** – Between 1 July 2017 and 30 June 2019, of the total number of mandatory notifications of alleged reportable conduct involving a child recorded as having a disability, the highest proportion (47 per cent) was from the out-of-home care sector. Most of the substantiated matters related to physical violence. Concerningly, cases involving children and young people with disability were less likely to be substantiated.
- **Inadequate support for families and poor oversight of placements** – The Commission holds significant concerns for the safety and wellbeing of children and young people with complex disability support needs being ‘voluntarily’ placed in accommodation outside of the family home with the consent, or sometimes at the request of, families. Such children are therefore outside of the family home, but not in the child protection system. We lack confidence that adequate or timely supports are provided via the NDIS, resulting in caregivers making extremely difficult decisions to seek placements outside of the family home. We are also concerned about the rigour of the oversight of the services that are provided to these children and young people. While Child Protection works with the NDIS to place, and provides funds for ‘board and lodging’, for these children and young people, it has no mandate to oversee their care and placement.

3.2 Children and young people who are absent or missing from residential care

The Commission is currently conducting an inquiry into children and young people who are absent or missing from residential care. The inquiry is examining the connection between children and young people who are absent or missing from care and their experience of victimisation, including as victims of sexual and criminal abuse and exploitation.

¹⁸ A contingency placement is funded outside of the agreed and budgeted departmental targets for placement services.

¹⁹ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 28, 145.

²⁰ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 40, 45 (Findings 8, 37 and 40).

²¹ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 43 (Finding 27).

²² Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 44 (Findings 31, 34-36).

²³ Commission for Children and Young People, *In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system*, 2019, p 40 (Finding 13).

The Commission is particularly concerned that the risk of going absent or missing from residential care, and exposure to criminal and sexual abuse and exploitation, is heightened for children and young people with disability.

The Inquiry report will be tabled later this year.

3.3 The experiences of young people with disability leaving out-of-home care

The Commission's recent *Keep caring* inquiry examined the needs and aspirations of young people leaving out-of-home care and the capacity of the service system to respond to them.²⁴ The Commission found that the out-of-home care system is failing to help young people plan and prepare for their transition to independence. Unlike many of their peers, young people leaving care face a significant withdrawal of support, leaving many homeless, unemployed and disengaged from learning, mental health supports and culture. The risk of adverse outcomes, including exposure to violence and abuse, is heightened for young people with a disability who often face additional barriers over and above their peers leaving care.²⁵

A high number of care leavers have a disability. Although the Victorian Government does not capture reliable data on the disability status of young people in care (see above), the Commission's review of a random sample of 166 files (of young people aged 16 to 18) found that 36 per cent had a disability according to file notes, usually an intellectual or cognitive impairment.²⁶ Twenty-nine per cent of these young people were Aboriginal.²⁷

The inquiry found some promising emerging practice involving Child Protection and funded agencies advocating for care leavers who were NDIS participants to receive the plans and supports they needed for a smooth and positive transition from care.²⁸ However the Commission found that their capacity – including to secure stable supported accommodation prior to young people leaving care – was hampered by:

- complex NDIS assessment processes
- late planning for supported post-care disability accommodation
- poor collaboration between Child Protection, funded agencies and the NDIA
- Child Protection and funded agencies lacking the knowledge and training to engage with NDIS processes and secure the appropriate outcomes for the young people they are supporting
- delay in identifying young people with a disability.²⁹

²⁴ Tabled in December 2020: Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020.

²⁵ Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 13.

²⁶ Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 13.

²⁷ Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 46.

²⁸ Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 15.

²⁹ Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 15-16, 25 (Finding 6.2).

The inquiry found that a shortage of appropriate accommodation options, as well as insufficient supports for carers to continue placements where appropriate, meant that many young people with a disability face homelessness as they exit the out-of-home care system.³⁰

Nearly all of the young people covered by the Commission's in-depth file review who did not have stable housing at the time they left care had a suspected or diagnosed intellectual disability.³¹

The inquiry also found that the challenges faced by care leavers were disproportionately felt by Aboriginal young people, who experience multiple forms of discrimination and are acutely over-represented in the out-of-home care system.³²

3.4 Opportunities for reform

A number of inquiries have examined the operation and impact of the out-of-home care system in recent years. The Commission has made many recommendations to improve the out-of-home care system, including mechanisms to improve safeguards for children and young people with disability and increasing accommodation options for care leavers with a disability. Despite numerous reforms being considered, the Commission awaits action plans from the Victorian Government in response to some of these specific reports and recommendations.

Key areas of reform that the Commission has made recommendations about include the following:

8. **Improve safeguards for children and young people with disability in out-of-home care** – To address these issues, the Commission has previously recommended that the Victorian Government:
 - a. provide a single point of contact/key worker for all children and young people in care.³³
 - b. improve connections to family, friends and community. This includes reviewing the adequacy of contact supports for children and young people in care with disability, including a developmental delay or intellectual disability.³⁴
 - c. Improve face-to-face contact between workers and children and young people in care.³⁵
 - d. Ensure carers can access respite and other supports.³⁶
 - e. Establish a child and young person-centred complaints function.³⁷ A recent investigation by the Victorian Ombudsman also identified the ineffectiveness

³⁰ Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 20 (Finding 15).

³¹ Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 20.

³² Commission for Children and Young People, [‘Keep caring’: Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 4.

³³ Commission for Children and Young People, [In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019, p 47 (Recommendation 5).

³⁴ Commission for Children and Young People, [In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019, p 47 (Recommendation 7).

³⁵ Commission for Children and Young People, [In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019, p 48 (Recommendation 10).

³⁶ Commission for Children and Young People, [In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019, p 47,48 (Recommendations 8 and 9).

³⁷ Commission for Children and Young People, [In our own words: Systemic inquiry into the lived experience of children and young people in the Victorian out-of-home care system](#), 2019, p 47 (Recommendation 6).

of current complaint mechanisms and recommended establishing an independent advocate for children in care.³⁸

- 9. Increase accommodation options for care leavers with disability³⁹** – As recommended by the *Keep caring* inquiry, this includes:
- a. That the NDIS market offers a diverse and flexible range of Specialist Disability Accommodation options for all care leavers with a disability who require them.⁴⁰
 - b. That the NDIA adopt processes to ensure a seamless continuity of supports to young people with a disability and their carers so these young people can remain with their carers where appropriate, following their exit from care
 - c. In circumstances where a seamless continuity of supports is not achieved, make available flexible brokerage, including via the Victorian Home Stretch program, to assist carers to continue caring for young people with a disability until appropriate NDIS supports are in place.
 - d. Increasing the number and range of supported accommodation options with appropriate levels of support (including those funded by the NDIS) for care leavers with a disability.⁴¹
 - e. Working together with the NDIA to collect and analyse data on the number of care leavers with disability who are unlikely to be eligible for Specialist Disability Accommodation.⁴²

4. The impact of COVID-19

COVID-19 has significantly impacted the daily lives of children and young people with disability in Victoria. On 16 March 2020 the Victorian Government declared a State of Emergency and implemented restrictions which inhibited children and young people's day-to-day movement and access to support and activities.

These restrictions resulted in children and young people with disability being less visible to people outside their immediate household, including schools and other services, extended family and their wider communities.

Restrictions also changed the way services to children and young people with disability in Victoria were provided. Many services, including Child Protection, child and family services, health and other support services, reduced or stopped face-to-face contact and changed to remote service delivery.

These restrictions occurred in the context of new and increased risks for vulnerable children and young people who were living in environments of increased family stress and adversity, including family violence.

³⁸ Victorian Ombudsman, [Investigation into complaints about assaults of five children living in Child Protection residential care units](#), 2020, p 79-81.

³⁹ Commission for Children and Young People, ['Keep caring': Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 32 (Recommendation 13).

⁴⁰ Commission for Children and Young People, ['Keep caring': Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 32.

⁴¹ Commission for Children and Young People, ['Keep caring': Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 32.

⁴² Commission for Children and Young People, ['Keep caring': Systemic inquiry into services for young people transitioning from out-of-home care](#), 2020, p 32.

From April to July 2020, the Commission conducted consultations to develop a point-in-time snapshot of the impact of COVID-19 on children and young people in Victoria. We heard from 644 children and young people – including 87 who reported having disability⁴³ – and 172 workers from 70 organisations including those providing services and supports to children and young people with disability. The Commission also increased its monitoring and oversight of the child protection and out-of-home care systems during this period.

4.1 What the Commission heard about personal safety during the pandemic

Children and young people talked to the Commission about conflict, tension or violence within the family during lockdown. Restrictions meant families were forced to remain at home, often under heightened stress. The Commission heard that many of the usual strategies young people used to manage risk, such as leaving the house, attending school or staying with friends or extended family, were not available.⁴⁴

As many face-to-face services withdrew, the Commission heard that children and young people with disability did not have access to all of their usual in-home supports and that usual services and activities to support positive behaviours were also unavailable due to restrictions. In addition, we heard about schools offering limited supports and flexibility for children and young people with disability to learn remotely. All of this compounded challenges faced by children and young people with disability during a time of heightened stresses and changes for them and their families, including risks of violence in the home.

Service providers cited limited face-to-face contact as a major barrier to making sure children and young people were safe. They said that in-person service contact is essential to monitor vulnerable children and young people and comprehensively assess their safety. Many expressed concerns about harm to children and young people being missed due to limited contact and the inability to speak privately with children and young people or family members.⁴⁵

For children and young people living in unstable accommodation, lockdown presented very significant challenges. While some children and young people reported being well supported by services and support workers, others found that crowded or unstable housing situations became more challenging and less safe as a result of the stay-at-home requirements.⁴⁶

4.2 Child Protection response to COVID-19 restrictions

During the early stages of the pandemic Child Protection largely shifted to remote service delivery and issued guidance about only prioritising cases for children and young people ‘at imminent risk who require a statutory or emergency response’.⁴⁷ This led to reduced visibility of children and young people in need of support or intervention.

The Commission requested data from the Victorian Government on child protection trends during COVID-19 to better assess these risks. Of particular concern were fewer notifications to Child Protection, significantly lower rates of cases moving from intake to investigation, and low numbers of in-person outreach visits each week during the pandemic.⁴⁸

⁴³ 89 respondents did not specify.

⁴⁴ Commission for Children and Young People, [‘Safety’, Snapshot: Impact of COVID-19 on children and young people](#), p 5.

⁴⁵ Commission for Children and Young People, [‘Safety’, Snapshot: Impact of COVID-19 on children and young people](#), p 6.

⁴⁶ Commission for Children and Young People, [‘Safety’, Snapshot: Impact of COVID-19 on children and young people](#), p 7.

⁴⁷ Commission for Children and Young People, [Annual report 2019–2020](#), 2020, p 20.

⁴⁸ Commission for Children and Young People, [Annual report 2019–2020](#), 2020, p 20.

Schools also play a critical role promoting children and young people’s safety as key notifiers to Child Protection. Although on-site learning was available to vulnerable students during the lockdown period, low on-site attendance numbers suggested few were attending on-site.⁴⁹ Our consultations disclosed cases where highly vulnerable children and young people, including children with disability and those living with violence at home, were turned away from attending on-site.

During this period the Commission advocated to the Victorian Government to restore suitable levels of face-to-face child protection services.⁵⁰ The Commission also engaged with the Department of Education and Training to achieve better support for vulnerable students, including by working with Child Protection at a local level to identify children and young people who may be at risk. Following this, the Department of Education and Training ran professional development sessions for teachers and principals with Child Protection to support staff to identify and respond to child abuse concerns during remote and flexible learning.⁵¹

4.3 Lessons from the Victorian experience

Victoria’s pandemic experience highlighted existing vulnerabilities in the service system and the de-prioritisation of the rights and needs of children and young people with disability during service adaptations.

It further demonstrates the need for a child-specific, independent mechanism for children and young people in out-of-home care to raise concerns for their safety and wellbeing.⁵² It is imperative that such a mechanism have a proactive engagement/monitoring function to effectively engage with children and young people with disability. The absence of this mechanism in Victoria leads to reduced visibility and protective measures for children and young people with disability in care.

⁴⁹ Commission for Children and Young People, [Annual report 2019–2020](#), 2020, p 20.

⁵⁰ Commission for Children and Young People, [Annual report 2019–2020](#), 2020, p 20.

⁵¹ Commission for Children and Young People, [Annual report 2019–2020](#), 2020, p 20.

⁵² Commission for Children and Young People, [Annual report 2019–2020](#), 2020, p 20.