

**PROPOSED ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND
EXPLOITATION OF PEOPLE WITH DISABILITY**

**DRAFT TERMS OF REFERENCE FOR CONSULTATION – INCORPORATING SOME
FORMAL ASPECTS OF LETTERS PATENT**

RECOGNISING that people with disability have the right to respect for their worth and dignity and the right to fulfil their potential as equal citizens.

AND that people with disability have the same rights as other members of Australian society to live and participate in safe environments free from violence, abuse, neglect and exploitation.

AND all forms of violence, abuse, neglect and exploitation against people with disability are abhorrent.

AND Australia has international obligations to take appropriate legislative, administrative and other measures to promote the human rights of people with disability, including to protect people with disability from all forms of exploitation, violence and abuse under the *Convention on the Rights of Persons with Disabilities*.

AND to give effect to those obligations and broader responsibilities to all Australians, all Australian Governments provide funding and services for people with disability, and have implemented laws to protect and enhance the wellbeing of people with disability.

AND it is important that violence, abuse, neglect and exploitation of people with disability in all settings and contexts are exposed and examined.

AND it is important that best practice is identified to inform future decision making on what all Australian Governments and others can do to prevent and respond to violence, abuse, neglect and exploitation of people with disability.

AND all Australian Governments have expressed their in-principle support for, and undertaken to cooperate with the inquiry.

NOW THEREFORE appoint you to be a Commission of inquiry, and require and authorise you, to inquire into the following matters:

- a) what governments, institutions and the community should do to prevent, and better protect, people with disability from experiencing violence, abuse, neglect and exploitation, having regard to the extent of violence, abuse, neglect and exploitation experienced by people with disability in all settings and contexts;
- b) what governments, institutions and the community should do to achieve best practice to encourage reporting and effective responses to violence, abuse, neglect and exploitation of people with disability, including addressing failures in, and impediments to, reporting, investigating and responding to such conduct;
- c) what should be done to promote a more inclusive society which supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation;

- d) any matter reasonably incidental to a matter referred to in paragraphs (a) to (c) or that you believe is reasonably relevant to the inquiry.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- e) all forms of violence, abuse, neglect and exploitation of people with disability, whatever the setting or context;
- f) all aspects of quality and safety of services, including informal supports, provided by governments, institutions and the community to people with disability, including the National Disability Insurance Scheme (NDIS) and the NDIS Quality and Safeguarding Framework agreed by all governments in 2017;
- g) that people with disability have specific needs, priorities and perspectives based on their personal circumstances, including their age, sex, gender, sexual orientation, intersex status or race, acknowledging the particular situation of Aboriginal and Torres Strait Islander people and culturally and linguistically diverse people with disability;
- h) the critical role families, carers, advocates, the workforce and others play in providing care and support to people with disability;
- i) examples of good practice and innovative models of preventing and/or responding to violence, abuse, neglect and exploitation of people with disability;
- j) the findings and recommendations of previous relevant reports and inquiries.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you, as you consider appropriate, having regard to the date by which you are required to submit your final report, to take (or refrain from taking) any action arising out of your consideration:

- k) the need to establish accessible and appropriate arrangements for people with disability, and their families, carers and others, to engage with the Royal Commission, and to provide evidence and information to you about their experiences;
- l) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;

- m) the need to ensure that evidence that may be received by you that identifies particular individuals as having been subject to violence, abuse, neglect and exploitation is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- n) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses.

AND We declare that in these Our Letters Patent:

The term **people with disability** refers to people with all kinds of impairment from birth or acquired through illness, accident or the ageing process. It includes cognitive impairment, as well as physical, sensory, intellectual, and psycho-social disability.

The term **government** refers to the government of the Commonwealth or of a State or Territory.