

Enabling and protecting

Proactive approaches to addressing
the abuse and neglect of children and
young people with disability.

Issues paper

Written by

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Southern Cross University

For **Children with Disability Australia**

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Summary

Many families report to Children with Disability Australia (CDA) that their children are subjected to limited opportunities, low expectations, exclusion, bullying, discrimination, assault, and violation of their human rights.

This paper draws from recent research about abuse and neglect and from national policy approaches in child protection and disability to better understand the causes, experience and responses to maltreatment of children and young people with disability.

A series of key concerns about abuse and neglect are raised to stimulate discussion and action which is in the interests of children and young people. Taking a rights informed approach, the paper focuses on building more effective national responses to children and young people who are maltreated.

Definitions

Children and young people with disability:

People 0–25 years of age.

People with disability: Disability is ‘a human characteristic that includes medical, functional, and social perspectives’ (McDermott & Turk, 2011). Most researchers, policy makers and practitioners tend to choose one of these perspectives and use it predominantly or even exclusively in programs, policy and research. The perspective dominating research and policy has shifted over time. The medical model prevailed through the 1980s; more recently, the functional perspective has gained prominence (ibid).

Australian terminology generally adopts ‘person first’ language, but the term ‘disability’ rather than ‘disabilities’ is used to acknowledge the disabling impact of social and cultural forces on people with impairments. It is a hybrid approach from the UK terminology of ‘disabled people’.

Child maltreatment: ‘Any non-accidental behaviour by parents, caregivers, other adults or older adolescents that is outside the norms of conduct and entails a substantial risk of causing physical or emotional harm to a child or young person. Such behaviours may be intentional or unintentional

and can include acts of omission (i.e., neglect) and commission (i.e., abuse)’ (Bromfield, 2005; Christoffel, et al., 1992, cited in (Price-Robertson, 2012). Maltreatment of children is generally divided into five primary subtypes: physical abuse; emotional maltreatment; neglect; sexual abuse; and the witnessing of family violence. Often, the terms *child abuse and neglect* and *child maltreatment* are used interchangeably (ibid).

There are a wide range of definitions of abuse and neglect in research, policy and practice. Common to all of these is the acknowledgement of harm at the individual level. Systemic, or institutional, abuses are less frequently acknowledged in definitions of abuse. In policy, the acknowledgement that some actions labelled as abuse and neglect are criminal activities may be even less frequently made (Brown, 2011; Page, Lane, & Kempin, 2002).

The definitions of abuse and neglect we use are not just semantic. They are important in how we understand the maltreatment that children and young people with disability experience—they help to determine the pathways of action we can take in preventing abuse and neglect, and appropriately and effectively responding to abuse and neglect when it occurs in the lives of children and young people.

Acknowledgements

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Introduction

The abuse and neglect of children and young people with disability is a longstanding and pervasive social problem. This harm in children and young people's lives ranges from chronic low level harassment and lack of appropriate care to extreme situations of criminal assault. It is underpinned by social and systemic practices and attitudes which set low expectations for children and young people with disability and which frequently leave them on the margins in both practice and policy.

Too often, we allow practices for children with disability which would cause community outcry if used for children without disability. We fail to take action as bystanders to address concerns about neglect, possible abuse, or professional poor practice which can result in abuse. We prioritise other concerns over the rights and needs of children and young people with disability to be safe, which can result in them remaining in situations of risk or of actual abuse.

This paper takes a multidimensional approach to understanding violence, abuse, neglect and exploitation of children and young people with disability. This means acknowledging that maltreatment is a complex social problem, and the interaction of relationships, environment and culture are core factors in the occurrence of abuse—it is more than a malicious action of one person on another (Brown, 2011; Cashmore, Scott, & Calvert, 2008; Sobsey, 1994; Stalker & McArthur, 2012). The paper does not attempt to provide an exhaustive summary of the issues; rather, raising a series of key concerns about abuse and neglect to stimulate discussion and action in the interests of children and young people.

Wider explanations of abuse and neglect are grounded in theoretical understandings of the social, cultural and structural roles and places of people with disability, including children. More conceptual approaches to understanding abuse and neglect share several features, primarily concerning the oppression, isolation and dehumanising of people with disability. These are all forces which substantially increase the conditions under which abuse is likely to occur and recur (Clapton, 2008; Hall, 2010; Kitchin, 1998).



The constructions of people with disability as damaged, 'other', less than human, and needing to be 'kept in their place' are dominant and powerful modes of social and cultural operation. They have informed the development of the structures and services provided to people with disability today. Some researchers argue that there has been a somewhat oversimplified movement between legislation, policy and practice around disability service systems in particular, and that this linear shift fails to give adequate space to reflect on the issues surrounding the 'big picture' of abuse and neglect, such as culture, environment and the impact of funding rules and regimes. The result of this approach are service frameworks which have significantly improved in terms of acknowledging the categories of abuse and neglect. However, it is questionable whether the incidence, experience and responses to abuse and neglect have been affected by these changes (Marsland, Oakes, & White, 2007; Robinson & Chenoweth, 2011; Stalker & McArthur, 2012).

There are three sections to this paper. The first section reviews the evidence base and conceptual underpinning about abuse and neglect of children and young people with disability. It considers the contexts



in which maltreatment occurs in young people's lives, the rates at which it happens, and factors that increase the risk of harm. Studies which include children and young people's experience of abuse and neglect are discussed, and issues identified which impact on the priority given to maltreatment. An approach for better understanding the abuse and neglect of children and young people with disability is presented.

The second section of the paper discusses the current system responses to abuse and neglect, taking a rights informed approach and focusing on national legislative and policy frameworks concerning the abuse and neglect of children and of people with disability.

The final section of the paper analyses this information and draws on further research to build some conclusions about what may support the prevention of abuse and neglect, and more effective responses to children and young people who are maltreated.

Methodology of the paper

The paper builds from research on abuse about children with disability and on child protection more broadly. Three different kinds of evidence have been drawn on to develop an understanding of the causes, experience, responses and implications of maltreatment of children and young people with disability:

- A review of recent research about child abuse, child protection and children and young people with disability was completed. The review focused on establishing an evidence base for the recognition of abuse and neglect; the prevalence of maltreatment; studies which include children and young people's perspectives; the implications of poor practice; and approaches which may address problems established by the research evidence.
- Policy and practice guidelines about child protection and support to children and people with disability in Australia and comparative countries were analysed, with particular emphasis on the degree to which broad policy goals and outcome statements included the rights and needs of children with disability.

- Enlivening this research approach are examples from the membership of Children with Disability Australia (CDA). These experiences highlight the range and diversity of abuse that children and young people experience across many areas of their lives, and emphasise the need for concerted action in preventing and responding to harm.

It is not within the scope of this paper to analyse practice or to attempt to provide a fine grained analysis of policy within specific contexts, such as early intervention services, education, or criminal justice agencies. This does not, however, imply that this work is not needed—quite to the contrary, this review identifies many gaps in research, policy and practice.





Section 1: Abuse and neglect— a complex social problem

The ways in which maltreatment is understood impact on how it is responded to and prevented by those in positions of leadership, and the vigour with which this happens. For example, many government and community organisations (schools, disability services, community services) have policies and procedures about abuse and neglect, but these focus primarily at the individual level, with little focus on prevention, or on the systemic and community level underpinnings which set conditions under which individual harms are more likely to occur. It is, of course, essential that individual instances of abuse and neglect are addressed promptly, effectively and with compassion. However, the lack of an overarching framework for prevention and systemic change means that protective factors are not strengthened, and capacity to resist maltreatment is not developed at individual, organisational and community levels.

How many children and young people are affected?

It is difficult to discuss the rates or prevalence of abuse and neglect of children and young people with disability with any certainty. Prevalence of abuse and neglect of children with disability may not be the most helpful indicator of the problem for informing policy and practice change, due to both the lack of reliable figures and the fact that it does not demonstrate the range of abuses, the impact of abuse and neglect in the lives of young people, or differential impact on children and young people according to social disadvantage, culture, Aboriginality or other measures.

There have been a small number of studies which estimate the prevalence of abuse in populations of young people with disability. None of these are Australian. Two population based studies conducted by Sullivan and Knutson (1998, 2000) have been considered the most reliable prevalence figures,

as they are drawn from a population-based sampling method with internal comparison groups. These researchers used administrative records from every child enrolled in educational programs in Nebraska, USA, and also social services and police databases to compare abuse prevalence among children with and without disability. They found the prevalence of maltreatment of children with disability to be 3.4 times higher than that for children without disability (31% as compared to 9%). A new global meta-analysis of 16 studies of prevalence and 11 studies of risk found combined prevalence estimates of 26.7% for violence in the lives of children with disability, and risk estimates of 3.68 (Jones et al., 2012).

Figures for children with disability in Australian child protection statistics are not available. It is estimated that in 2009, 492,500 children and young people aged 0–24 years (6.8% of total group) had a disability (Australian Bureau of Statistics, 2010). In 2010–11, approximately 31,500 children aged 0–12 were the subjects of substantiated notifications to child protection authorities in Australia. This equates to around 1 in 65 children (Australian Institute of Health and Welfare, 2012). Prevalence rates for children are not considered to be highly reliable, relying on retrospective self-reporting or children who come to the attention of child protection authorities (Cashmore, Scott, & Calvert, 2008). A number of researchers note that it is likely that abuse is under-reported by children and young people with disability, for a range of reasons, including lack of support to make a complaint; not feeling they would be believed; not having the words to name the harm they are experiencing; and the feelings of intimidation and fear experienced by all children (although possibly heightened for children with disability who are reliant on an abuser who also provides their daily personal support) (Briggs & Hawkins, 2005; UN Secretary General, 2005).

Two review studies offer a robust discussion of the range and scope of research which estimates rates of abuse and neglect. Stalker and McArthur's review of recent research (2012) and Horner-Johnson & Drum's (2006) review of prevalence studies found that, while much research provided valuable insights on the experience of violence, exploitation, abuse and neglect for particular groups of people with disability, most of the research conducted between 1995 and 2012 is based on small or convenience samples and does not form a reliable basis for estimating prevalence.

The existing research allows us to say with confidence that:

- Children and young people with disability experience abuse and neglect at rates considerably higher than their peers who do not have disability (the prevalence of abuse)
- Children with communication impairments, behaviour difficulties, intellectual disability and sensory disability experience higher rates of abuse
- Abuse and neglect of children and young people with disability is likely to be under-reported
- That they are often abused on multiple occasions (the incidence of abuse)
- This maltreatment is significant (the impact of abuse) (Fitzsimons, 2009; Kvam, 2000; Sobsey, 1994; Stalker & McArthur, 2012; Sullivan & Knutson, 2000).

There is also little research on the impact of abuse and neglect in the lives of young people with disability, and it is important that further research in this area is undertaken with reference to research on incidence and prevalence.

What kinds of maltreatment do children and young people experience?

Abuse and neglect of children and young people with disability occurs in all of the places in which they live their lives. It happens in families, in out-of-home care environments and in service contexts (such as respite care). It happens in schools, in preschools and after school centres. It happens in generic or mainstream environments and in specialist disability services.

Some abuse and neglect occurs as an action by a malevolent individual towards a child or young person with disability. Abuse and neglect is, however, more complex than a 'bad apple in a good barrel' phenomenon. A context based approach to understanding and responding to abuse and neglect of children and young people with disability (discussed below) highlights linkages between maltreatment and strategies needed to address it.

Hilary Brown, a researcher and practitioner about abuse and protection in the UK, has identified several different contexts in which abuse occurs:

- **Crimes in the community:** Hate crimes; predatory crimes; parasitic or 'mate' crimes.
- **Family violence, abuse, neglect or exploitation:** Violence from family members; ongoing neglect; ill-informed about, or not able to cope with care, including care needs specific to children's disability; financial abuse.
- **Poor quality domiciliary care:** Abuses centring on the quality of personal care services in the home.
- **Poorly commissioned, resourced or regulated care:** Abuses in services/ institutional abuse (rigid regimes, staff unmotivated or overwhelmed, cruel individuals, abuse by other service users, institutionally sanctioned neglect or poor quality care); unethical or unauthorised practices in response to challenging needs, mental health needs, or illness; breaches of professional boundaries by powerful or resentful staff.

Underlying all of these contexts is *discriminatory access to mainstream services and public resources*—health, housing, education, criminal justice, social security, and so on, all of which may be exacerbated by poverty, racism and social exclusion (Brown, 2011). Many children and young people receive little or no access to higher levels of service and care in areas such as housing, educational support, equipment and so on—despite having at times significant support needs. There is also an intersection between discrimination and abuse. Saxton considers discriminatory behaviour to be driven mainly by thoughtlessness, and abusive behaviour by intent. She writes, 'thoughtless behaviours, when unchallenged, can lead to extreme situations. Discriminatory attitudes and behaviours set the stage for abuse by allowing people in the public to discount people with disabilities as fully deserving of respect and dignity' (2009, p. 74).

Responding to the complex nature of harms incurred by people with disability is multifaceted. Brown offers a schema for developing effective responses, according to the type of abuse, the relationship

between the perpetrator and the person and/or their gender or position, and the context in which it occurs and the systems which need to be engaged to deal with it (2004, pp. 41–42). The table below builds from her work.

Abuse	Response needed
Ordinary crime in which the victim happens to be a vulnerable person.	Goal to facilitate access to criminal justice system and mainstream agencies and to ensure children and young people are treated as full rights holders. This also relates to engagement of the criminal justice system and mainstream agencies when other forms of abuse and neglect reach criminal levels.
Abuses which arise out of inequitable access to health care, benefits, housing and other service provision as a result (but also a cause of) discrimination and social exclusion.	Requires monitoring through the collection of population wide statistics rather than documentation of individual complaints or incidents.
Abuses which arise out of challenging needs and ethical dilemmas.	Require formal, open and transparent decision-making, conducted on the basis of wide consultation, open to appeal and with the help of legal or citizen advocates. If these abuses reach a criminal level, access to the criminal justice system and mainstream agencies also needs to be facilitated.
Abuses which arise out of professional or service relationships in which unequal power, institutional dynamics, poor training and low expectations conspire to produce rigid, depersonalising environments and callous or ignorant individual responses.	These breaches of conduct and standards require action within the regulatory framework and by professional bodies.
Deliberate and predatory abuse in which vulnerable people are groomed and targeted (for example by serial sexual offenders or in order to abuse financially), requiring concerted action not only on behalf of a current victim but also on behalf of future potential victims.	These crimes are particularly morally abhorrent and justify prompt sharing of otherwise confidential information and interventions to screen the workforce.
Non-criminal abuse by peers, with and without disability (bullying and victimisation).	Policy responses which support the development of education and inclusive practice, accompanied by legal sanctions for vilification or victimisation.
Abuse which does not reach current ‘notifiable’ benchmarks, either in criminal justice or policy terms, but which has significant impact on the person (‘low’ grade emotional abuse, for example).	Educative responses, building of capacity across individual, organisational and community levels to increase personal safety and support bystander action.

Table 1: Contexts of abuse and response, building from (Brown, 2004).

Factors that increase risk

Children are often considered 'vulnerable', and children with disability particularly so. However, vulnerability is a contested term. While children and young people with disability experience harm at far higher rates than their peers without disability, impairment does not of itself make a child or young person vulnerable. Other features in young people's environments, relationships and the cultures of their communities may have a greater part to play in how vulnerable (or otherwise) they are to abuse and neglect than does their impairment.

For example, the presence of Down Syndrome does not render a teenager vulnerable. However, a lack of social connections and networks, the absence of a trusted adult in their life, and caregivers who do not understand any individual communication methods they have would make them vulnerable. It is in the interaction between the person and the relationships and support systems they might need to live a full and fulfilled life where the relationship between vulnerability and harm becomes very important.

I have two boys with autism spectrum disorder. My oldest has been supported through both primary and secondary school with aides, services, modifications and has attended a local specialist developmental school. Words cannot describe how wonderful the entire school have been in supporting my son and our family.

My younger son survived mainstream primary school with very little support. His experience of high school led him to attempt suicide. Every promise of support and modification has yet to be delivered. He has broken an ankle through bullying, has been beaten up on the way home from school and is now under the care of a psychiatrist and psychologist. (Theresa, mother of Pete and Liam).

Other areas where research has identified high risk of abuse and neglect for young people with disability include where they have little choice or control over their lives; have multiple care providers, and little or no choice over who provides that care; rely on others for intimate personal care; live or spend significant

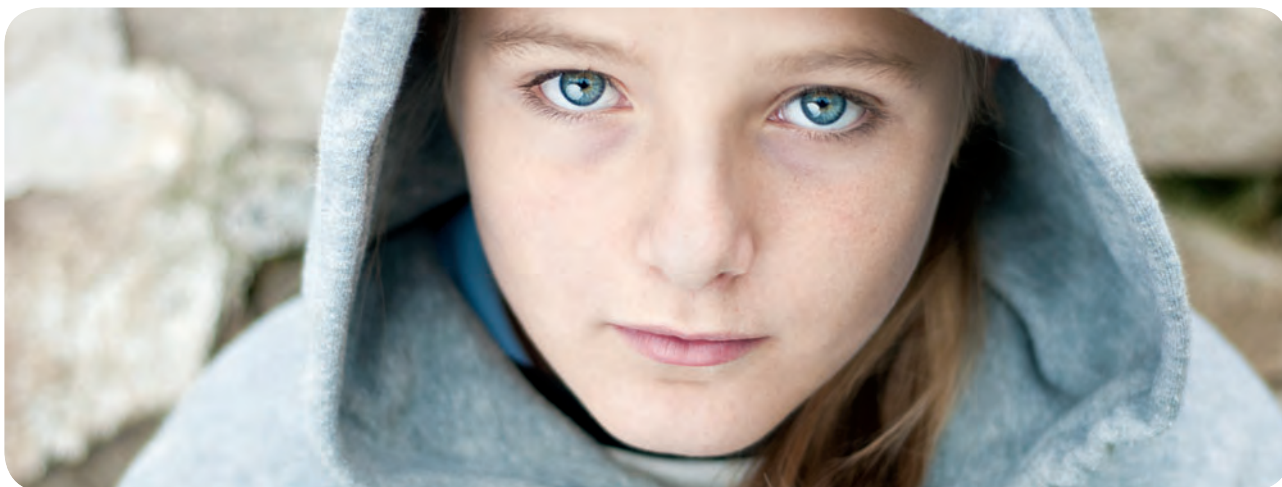
time in settings where they are expected to be always compliant and well behaved; rely on alternative forms of communication; are viewed negatively by others; and are less able to be able to name abuse (Fitzsimons, 2009; Marsland et al., 2007; Sobsey, 1994). Children and young people with challenging behaviour have been shown in some research to experience higher rates of abuse and neglect, and to be at higher risk due to their need for effective support to manage both their own and their family or carer's frustration (Shannon & Tappan, 2011).

There is a strong body of evidence to demonstrate that high risk environments, where violence, abuse, neglect and exploitation are more likely to occur, share some common features. They emphasise control; isolate children and young people, cluster people with the greatest risk together, and reinforce compliance. (Fitzsimons, 2009, 2011; Sobsey, 1994; Wardhaugh & Wilding, 1993; White, Holland, Marsland, & Oakes, 2003).

At a more systemic level, the kinds of environments in which abuse is more likely to occur have a closed culture, and cover up reports of abuse, and/or fail to protect people who report. They justify and rename abusive practices (e.g. behaviour management), readily accept excuses for abuse, and have low accountability and little outside scrutiny. Finally, these environments have a strong power imbalance between workers and people using the service (children and their families) (Algood, Hong, Gourdine, & Williams, 2011; White et al., 2003).

Every day the principal would call me to the school to ask me to take my son home. When I complained to the District Office he then told me he would start suspending him until I removed him from the school. About every two weeks he would suspend my child for three days, increasing to five days over three years.

At the broadest level, social forces and conditions impacting on the broader community can have disproportionate effect on children and young people with disability, and increase the conditions under which abuse may occur. These include poverty, unemployment and underemployment, inadequate housing, poor quality health care, exposure to domestic violence, and social stereotypes of



vulnerability (Algood et al., 2011; Chenoweth, 2002; Women With Disability Australia, 2011).

Policy and legal frameworks which direct the responses to the abuse and neglect of children and young people vary according to the state in which they live, and there are inconsistencies between states, and between state and federal platforms (French, Dardel, & Price-Kelly, 2010).

This can be seen particularly clearly in a double standard in environments where children with disability spend large amounts of time, particularly schools. Reports of aversive and abusive behaviour management practices (viewed by particular schools as appropriate for students with disability) have been made over many years by students with disability, family members, advocacy groups and legal bodies, appearing in mainstream media, abuse research and disability advocacy papers.

CDA members report a range of abusive practices in schools, including:

The use of a martial arts instructor to train school staff in the 'behavioural management' of children with disability;

The use of small rooms and small fenced areas as punishment for 'bad' behaviour;

The use of chemical restraint—medication to influence behaviour—without accompanying positive behaviour support strategies. In some instances, the giving of psychotropic medication is a condition of the child being allowed to attend school;

The withdrawal of food and drink as part of an individual education plan if a student did not behave in a desirable way;

The lack of toilet facilities or support for children resulting in them having to either sit in urine and faeces, continent children having to wear nappies, or the withdrawal of fluids from lunchtime onwards for bus trips of up to 2 hours in order to get to and from school.

Recognising harm

There is a range of evidence to show that abuse and neglect of children and young people with disability is at times poorly recognised by (and sometimes perpetrated by) people in a position to take action against it—families, disability support workers, teachers, integration aides, child protection workers, medical professionals, police, and community members. Further, workers in these fields have reported feeling ill equipped to meet the needs of children and young people with disability who have significant support needs, possibly resulting in a reluctance to take on their 'case'. These factors clearly affect the way we act to prevent violence, abuse and neglect, and respond to its occurrence.

Research about recognising abuse and neglect says:

- There is often a reluctance to believe that children and young people with disability experience high rates of abuse; and that they can give credible and reliable accounts of their experiences (Akbas et al., 2009; Mephram, 2010).

- In wishing to provide protection to young people, the withholding of education about sexuality and personal safety has left them without a language to describe abuse (Gore & Janssen, 2007).
- There has been less recognition of abuse in children with disability who come to mainstream services such as hospitals (Kvam, 2000).
- Professionals have reported inadequate support to develop the skills they need to do their job well with children with disability (for example, police interviewing skills development and maintenance)(Aarons, Powell, & Browne, 2004).
- Some sectors have been slow to recognise the need to address children with disability as a particular group requiring support (such as domestic violence workers) (Baldry, Bratel, & Breckenridge, 2006).
- Children and young people with disability may be inadequately supported to counter peer violence, exploitation and abuse (Briggs & Hawkins, 2005).
- Families and other care providers may be inadequately supported to meet the needs of children and young people with complex support needs (Shannon & Tappan, 2011).

- The particular circumstances of children with disability may be ill-considered in broader campaigns about abuse prevention, such as school anti-bullying strategies (Dyer & Teggart, 2007).

The experience of CDA is that education is one of the most significant challenges facing children and young people with disability and their families. Frequently, families report that through their education experiences, children are subject to limited opportunities; low expectations; exclusion; bullying; discrimination; assault and violation of human rights.

Terry has high functioning autism, and the principal of his school told his mother he could not attend unless he was medicated. Upon taking the medication, understanding he could not go to school otherwise, Terry began having seizures in response to the medication. No behavioural psychology approach was trialled by the school prior to commencing medication.

The principal came to me one day and told me himself that he had been putting my son in the storeroom and closing the door so that the other kids were not interrupted while they did their school work—we are talking kindergarten kids. It started one day when my son could not thread cotton through a needle to sew a button on a sock puppet.

Amanda—Tom's mother



CDA members report that physical discipline and exclusion of children and young people with disability is at times inadequately recognised as abusive, and continues in some environments, particularly education settings. This is consistent with a steady flow of reports in the mainstream media concerning abusive practices in schools, and also transport services which are funded to meet the needs of children and young people with disability.

There is a concerning gap in research on these issues. Research evidence about abuse and neglect in education environments is particularly scant, and the empirical studies focus primarily on bullying and harassment (Gore & Janssen, 2007; Mephram, 2010; Weinberg, 1997).

The voices of children and young people about abuse and neglect

Research with children and young people with disability that canvasses their experiences, views and ideas about abuse, and about preventing harm, is very limited and has been identified by a number of researchers as a significant gap in knowledge (Dyer & Teggart, 2007; Mepham, 2010; Stalker & McArthur, 2012). Hearing and responding to the voices of children and young people is critical in understanding the impact of harm, in developing new and innovative ways to respond to abuse and neglect, and in being responsive to what young people identify as the key issues causing them most concern.

...remembering all the times I have been bullied at school, I sink into my darkest times. I am being continually pushed over the edge, no-one has resolved the incident, and my mum is not supportive enough to get me out of the greatest depression in my life. Now, I am considering killing myself just so no-one can bully me anymore.

My mum is now getting upset with me when I come up with ideas to get me to be happy, like never coming out of my room. The school and my mum are arguing about what each other should do. I'm stuck in the crossfire of a war.

Jo, 14 years

For this review, a limited number of research papers were located, most of which were small qualitative studies—important, but not generalisable. In their extensive review of the literature, Stalker and McArthur (2012) found only four studies which included the views of children and young people with disability, two of which had sample or methodological limitations. In one of the other two studies, Akbas et al. (2009) conducted research with 20 children with learning disability who had been sexually abused, finding that they could consistently provide a thorough and detailed history of their experience.

The remaining study referred to by Stalker and McArthur is a study with 116 teenagers with intellectual disability in New Zealand which found

significant levels of violence both in the home and at schools (Briggs & Hawkins, 2005). However, children and young people also told about their reluctance to report abuse and criminal assaults, due to 'embarrassment, fear, and a lack of belief that their experiences would be well received or acted on' (p. 24). Importantly, the researchers also found that children and young people had limited basic safety skills, and had often unrealistic ideas about how they would escape unsafe situations. A further distinction made by these children and young people was between abuse inflicted by strangers, family members, and older children/young adults. Most participants in this study accepted sexual misbehaviour by peers or older young people (coerced and forced sex, forced viewing of pornography, and so on) as the norm, and not worth reporting.

Research about abuse and neglect with children and young people who have non-standard communication is rare (Murphy, O'Callaghan, & Clare, 2007). This is of concern, given their high risk, and the limited avenues for relaying information about abuse for children who communicate primarily through behaviour or through augmentative and alternative communication. CDA has received multiple reports of children with clearly concerning signs of abuse which have been interpreted as part of their behaviour 'problems'. Young people may not have signs as part of communication programs for abuse or for behaviour which makes them feel uncomfortable, leaving them without a language to talk about what has happened to them.

Bullying

The significance of bullying, victimisation and repeated 'low level' (in systemic terms) incidents of abuse from peers is clear from studies with young people with disability. Mepham's study with young people with disability and their families in the UK found that 'the effects of disablist bullying are pronounced and in many cases it is preventing disabled children from living full and happy lives' (2010, p. 24). Reiter, Bryen & Shachar (2007) conducted survey research with 100 students with and without disability, finding that students with intellectual and other disabilities experienced abuse more often than their peers, most of the abuse occurred in the child's close social environment of the victim, and the abuse was repeated over time. Dyer & Teggart, in their research

with teenagers using mental health services, found high rates of bullying in the experience of young people, and a high correlation between the bullying and the use of mental health services (2007).

The impact of bullying, harassment and victimisation in the lives of children and young people is made clear through the experiences of CDA members. As well as verbal and physical bullying and assaults by peers, families talk of harassment of children and young people by teachers and principals. Children and young people known to CDA have been driven to attempt suicide, and others have left their schools due to their experiences.

For me the worst thing is the bullying. There are just so many kids that are freaked out by disability and some teachers are as well, to be honest. This year I have been hit in the head, punched, called a retard just too many times or on a not so bad day just told I am not normal.

I sometimes over-react to the bullying and then I get detentions for my behaviour. Once I had to wear my uniform to parent/teacher day because I had a detention. I then had to empty rubbish bins for 90 minutes. It didn't make me think about my behaviour, it just made me incredibly sad. How does that help someone learn?

*All this stuff really impacts on a kid's self-esteem you know.
Eric, 13 years.*

It is interesting to note that broad scale survey instruments are beginning to note the difficulties children and young people with disability have in this domain. The 2009 ABS survey of Disability, Ageing and Carers found that 37% of children with disability were reported to have difficulty fitting in socially at school (Australian Bureau of Statistics, 2012).

How abuse and neglect gets de-prioritised

Research which asks children and young people with disability about their experiences of maltreatment is particularly valuable, because the experience of abuse and neglect is sometimes minimised and downplayed when other competing pressures are considered.

When children and young people have challenging behaviours, abuse and neglect can be reframed as behaviour management—and practices which are either received as abusive by the child or which would be held by a reasonable standard to be abusive or neglectful are instead framed in a behavioural context.

Sometimes abuse and neglect can be unintentional on the part of the abuser. Examples of unintentional abuse and neglect include the widespread systemic failure of disability service individual plans to actively include strategies for supporting the emotional and psychological growth and sustenance of children and young people, or a teacher's aide being required to implement a behaviour management program which a student finds emotionally traumatic and distressing.

The compliance and risk requirements of disability services and boards may also focus the attention of staff, managers and board members away from the experience of children and young people and onto matters of workplace health and safety, insurance and compliance with funding conditions and standards. This is likely to come at the expense of vigorous response to abuse and neglect. Similarly, low skill in workers providing support to people with disability, particularly those with high support needs, increases the risk of abuse (Robinson & Chenoweth, 2011).

The experience of CDA supports this research, with members reporting a wide range of experiences of what could be described at best as poor behaviour management practice, and at worst as assault. These include locking children and young people in time out rooms or yards as a behaviour management strategy; training of school staff in physical behaviour management techniques (the use of force) over positive behaviour support strategies; and the renaming of peer to peer assault (being bitten, scratched or punched) as accidents.

Criminal actions, including rape, assault, false imprisonment, and theft have been described as abuse and treated as policy issues, staff development or training issues, or behaviour management issues (Robinson & Chenoweth, 2011; Sobsey, 1994). These are not. They are crimes, and children and young people who experience these forms of harm deserve the same recourse to justice as do children without disability. Locating this type of abuse in a service context can, and does, diminish its significance through a parallel focus on governance issues such as workplace health and safety and quality assurance (French et al., 2010).

When abuse of children and young people with disability happens in families, other factors may be also impacting on the functioning of the family, such as domestic violence, financial pressure, unemployment, parental separation, or stress of family members who have responsibilities for supporting the young person with daily living activities. These are all legitimate and concerning pressures and stresses, and it is important that families are able to access support, if needed, to address them. However, the needs and priorities of children and young people with disability for attention to their experience of maltreatment, without being viewed as a risk factor or a stressor in the lives of someone else, is critical.

There is a danger that dominant normative understandings of children, and of child abuse, exclude children with disability, or that they include them only partially, in broader initiatives about preventing abuse of children and responding when it does occur. Goodley and Runswick-Cole note the impact of the medical or psychology-driven approach to diagnosing and treating children with disability, which applies equally to child abuse initiatives and programs:

The definitions of disability and special education needs, which underpin the current policy context, continue to locate the deficit within the child, rather than focusing on barrier removal. Consequently,

any configuration of the child in education, the community, leisure settings and in health will carry the imprint of this limiting conception of the disabled child (2011, p. 76).

Recent US research found that only seven of 28 child abuse prevention programs included children with disability as participants, and a further five included mention of disability as a risk factor for abuse (Fisher, 2009). Another study which asked child abuse investigation and case management workers to respond to vignettes about the abuse of children with three impairment types found that these workers were more likely to attribute characteristics to the children which contributed to their abuse than to children without disability, and to feel greater empathy towards abusive family members (Manders & Stoneman, 2009).

This section of the paper has reviewed the evidence base about abuse and neglect of children and young people with disability, focusing on the contexts, risk factors, and issues that de-prioritise responses to harm. The somewhat limited research evidence, underpinned by strong conceptual foundations on the social and cultural positioning of people with disability, develops a concerning picture of the marginality of children with disability who experience harm at the hands of others.





Section 2: Current system responses to abuse and neglect

This section of the paper considers the current responses to the abuse and neglect of children and young people with disability at a national level. It is of necessity brief, and aims to provide an overview, rather than an exhaustive summary of legal, policy and practice approaches.

Responses to the abuse and neglect of children and young people with disability fall between national and state jurisdictions. For example, much current legal action for children tends to take place in State based law. There are inconsistencies between state based responses at legal and policy levels and between state and federal responses to the maltreatment of children with disability (discussed earlier in the paper), which highlight the fact that there is a diverse range of interventions, policy approaches and legal remedies across a range of domains aiming to achieve a coherent task of preventing harm to children.

Protective and responsive frameworks: a rights informed approach to abuse and neglect

The human and legal rights of children and young people with disability are spelt out not only through domestic legislation protecting all community members from criminal and civil wrongs, but also through both the United Nations Convention on the Rights of the Child (CRC)(1990) and the Convention on the Rights of Persons with Disabilities (CRPD) (2006).

The two conventions lay a framework of expectation that children with disability are free from all forms of exploitation, violence and abuse (CRC Article 19; CRPD Articles 16, 34, 36), free from torture or cruel, inhuman or degrading treatment (CRPD Article 15; CRC Article 37), and enjoy liberty and security of the person (CRPD Article 14; CRC Article 16, 37). Further,

children who have experienced abuse and neglect are entitled to measures to promote their physical and psychological recovery and social reintegration (CRC Article 39; CRPD Article 16). This is in addition to the enjoyment of other rights for participation, equal recognition before the law and access to justice, which have direct connection to the experience of abuse and neglect.

In ratifying these conventions, Australia (among many other countries) undertook to comply with their conditions in preventing and responding to violence, abuse, neglect and other forms of harm in the lives of children with disability. The Australian government's progress in meeting its obligations is measured through a reporting process to the UN. In 2010, the Australian Government, through the Attorney General, completed a Universal Periodic Review. Key developments reported by the Commonwealth relating to the protection of children with disability from abuse and neglect included the:

- 2009 endorsement of the National Framework for Protecting Australia's Children
- Development of the National Plan to Reduce Violence against Women and their Children
- Development of the National Disability Strategy (then in draft form, now finalised).

The UN also requests a 'shadow' report from NGO bodies to assist in painting a detailed picture and in developing recommendations for future improvement. The shadow report on the CRPD released in 2012 identifies many areas in which children with disability are facing considerable barriers around both a disproportionate experience of harm, and in systemic responses to that harm, including:

- In Australia, there is no specific legal, administrative or policy framework for the protection, investigation and prosecution of exploitation, violence and abuse of people with disability.
- Students with disability continue to be subject to high rates of abuse, bullying and harassment in the education system. While anti-bullying policies are in place in many schools, they are often inadequate in addressing the specific needs and circumstances of children and young people with disability.

- Children with disability continue to experience restrictive practices in both mainstream and 'special' schools, including being locked in isolation rooms, being physically restrained and penned in outside areas, and chemical restraint.
- Children with disability, particularly Aboriginal and Torres Strait Islander children, are more often placed in inappropriate, successive out of home care arrangements or stay for long periods of time in respite care or hospital placements, which then puts them in situations of risk of harm and also deprives them of an appropriate family environment.

Among other recommendations, the Shadow Report calls for the Australian government to establish an independent, statutory, national protection mechanism with broad functions and powers to protect, investigate and enforce findings related to situations of exploitation, violence and abuse experienced by people with disability, and that 'addresses the multiple and aggravated forms of violence and abuse that



result from the intersection of 'disability' with other characteristics, such as gender, age, indigenous status and racial, cultural or linguistic status' (2012, p106). Further recommendations centre on a comprehensive public inquiry into the incidence, forms and circumstances of exploitation, violence and abuse of people with a disability in the community and within a full range of service settings; and the establishment of a national coordinated framework for the prevention of violence, abuse and exploitation of men, women, girls and boys with disability.

Domestic legislation

While all people with disability, including children and young people, have access to the same range of criminal and civil protections as do all Australian citizens, people with disability face additional barriers in accessing the legal system and in obtaining justice when they have experienced abuse and neglect.

The standard of proof in criminal cases is high, requiring strong evidence which meets the legal test of 'beyond reasonable doubt', which in many cases of abuse is likely to be difficult to obtain. Research shows that court systems have difficulty in making adjustments which may make them more accessible to children (Cashmore & Trimboli, 2005) and to people with disability (Kebbell, Hatton, & Johnson, 2004). The needs of children and young people with disability in this arena are compounded.

Sheehan (2000; 2006), in studies of emotional harm presentations in children's court hearings, notes that criminal hearings rely upon individual instances of harm as evidence, rather than relationships which are harmful, and that there is also a heavy reliance on physical evidence of injury.

The standard of proof required in civil actions is lower, the test there being 'the balance of probabilities'. There are, however, several barriers to civil action. The greatest difficulty in torts litigation is 'material damage', or the need to quantify the loss suffered by the person in tangible terms. In many instances, the person taking the action will be an individual against an organisation and their insurance company.

The Australian Human Rights Commission (AHRC) oversees the application of federal legislation in the area of human rights, including the *Disability Discrimination Act* (1992). The strength of the discrimination framework lies in its conciliation

approach, and the low threshold of evidence it requires in order to accept a complaint. The focus of harassment cases is the harm which has resulted from an action or series of actions, or the failure to act—so the behaviours are the focus, rather than the abuse experience.

This highlights the differences between the language of the law and the language of abuse which come into play at all levels in the legal system. The fundamental premise of the AHRC framework, however, is that the wrong done was on the basis of an inappropriate response to the existence of disability. While it is almost impossible to extricate disability from this complex mix, a question is raised about whether there is a risk that linking the abuse to disability discrimination may inadvertently drive a policy response when a criminal or civil response may be more appropriate (French et al., 2010).

Key policy responses to abuse and neglect of children with disability

Several high level national policy schemas are pertinent to the abuse and neglect of children and young people with disability. Some of these relate to children, some to people with disability, and one specifically to children with disability.

Policy frameworks for children

The *National Framework for Protecting Australia's Children 2009–2020* adopts a public health model of prevention which aims to provide the most appropriate response to families under stress and those in which abuse and neglect has already occurred, and ultimately to reduce the occurrence of child abuse and neglect.

Although there are a wide range of broad policy and practice initiatives in the Framework from which children and young people with disability may benefit, the barriers to action discussed above may limit their access to generalist programs without specific intervention to make mainstream services welcoming and assist workers to feel skilled in supporting them. Few initiatives and policy actions refer specifically to children and young people with disability. Disability, both in parents and in children, is represented as a risk factor for abuse and neglect. The two policy actions which refer to children with

disability and families refer to the expansion of mental health services for young people; and to a series of state-based actions which cluster assessment, service provision and the development of operational principles under the banner 'enhance supports for children or parents with disabilities'. These are contained within the strategy *Increase services and support for people with mental illness*, and no indicators of change are attached. Commentary on the Framework recognises the limited focus on children and young people with disability (Babington, 2011). This medicalised approach to disability has to date been a missed opportunity to include children and young people with disability in the wide ranging initiatives of the Framework.

The implementation plan for the first three year cycle of the plan did not contain a priority action which relates specifically to children with disability, although actions on joining up service delivery and taking early action may address their particular needs around abuse with targeted interventions. Arguably, the most relevant priority actions in the implementation plan concern enhancing the evidence base and filling the research gaps. As demonstrated in the first section of the report, the lack of large scale research into abuse and neglect of children and young people with disability is a barrier to making change, as it precludes awareness of their experiences and needs.

The second of the three, three year action cycles has recently been announced. It will seek to link with the rollout of the National Disability Insurance Scheme and National Disability Strategy. The action plan includes a focus on increasing the evidence about children with disability (among other groups); exploring the interface between disability, child protection and primary service systems; exploring evidence-based models of working with families where disability of the child or adult is impacting on the safety and wellbeing of children; and review the service response to children with disability in out of home care (2012).

The recent announcement of a national Children's Commissioner is a welcome development in the protection of the rights of children, including children with disability, and responds to a gap identified by the UN Committee on the Rights of the Child.



The *National Plan to Reduce Violence against Women and their Children 2011* will be a series of four three-year action plans to coordinate the effort to reduce violence against women and their children. Children with disability are mentioned in the context of domestic violence, in terms of risk.

The *National Safe Schools Framework* developed by the Department of Education, Employment and Workplace Relations (DEEWR) addresses bullying, harassment, aggression and violence in schools. It takes a global approach and while including principles and key action areas which are relevant to children with disability (as to all children), does not include specific reference to them as a group who experience higher rates of harm.

Policy frameworks for people with disability

The *National Disability Strategy* is a national policy framework agreed to by all levels of government. It is designed to support the development of the principles of the CRPD into policies and programs for people with disability, families and carers. It is a milestone document in looking beyond the specialist disability

service system and seeking to bridge specialist and community supports and relationships in the lives of people with disability. One of the six policy areas, rights, protection, justice, and legislation, includes a specific policy direction for people with disability to be safe from violence, exploitation and neglect. Areas for future action are broad in expression, not relating to children specifically, and include such measures as 'Develop strategies to reduce violence, abuse and neglect of people with disability' (2.3, p.41) and 'improve the reach and effectiveness of all complaint mechanisms' (2.6, p.41).

Each state jurisdiction has, or is currently developing, an individual plan to translate the Strategy's vision into tangible and measurable service improvements.

The *National Standards for Disability Services* are currently under review, which include a strengthened focus on human rights, expanding the ways that disability services are expected to respond to abuse and neglect, explicit recognition of the important role of informal supporters in keeping people safe, and a focus on prevention within specialist disability services.

The *National Disability Insurance Scheme* (NDIS) is a key policy development arising out of this changing focus. Under an NDIS, the framework of personal support for children with disability may look markedly different—individual funding, person centred approaches to support, and increasing control of service and support by people with disability and their families are hallmarks of the scheme. A series of opportunities and risks emerge around abuse and neglect, and in safeguarding the rights of children and young people with disability to be safe under new ways of negotiating supports.

The *Disability Standards for Education 2005* include Standards for harassment and victimisation, requiring education providers to take steps to prevent, educate, respond and enable complaints about harassment and victimisation on the grounds of disability. The final report on the Review of the Disability Standards, recently released, includes as key areas for attention discrimination, bullying harassment and victimisation; the use of restrictive practices; and strategies for meeting the needs of students with complex and multiple needs (2012). The Commonwealth has agreed to develop a range of practice guidance materials in these areas for education providers,

and is awaiting the consolidation of anti-discrimination laws prior to further action around discrimination (2012).

By what standards do we measure?

The increasing level of cooperation around both child protection and disability policy and practice agendas through the Council of Australian Governments (COAG) offers hope for better outcomes nationally and at state levels, with more coherence emerging in policy and practice frameworks in and between states and opportunities for sharing knowledge and research development. Challenges remain in connecting the policy agendas across domains for groups who remain at particular risk of maltreatment, such as children and young people with disability.

There are also significant questions about how progress is measured. Holding practice and policy against disability standards has been criticised for failing to reach levels which would be acceptable to the broader community, resulting in a 'second

tier' of service provision and policy which sets low expectations and demands on providers (Di Rita et al. 2008; Robinson & Chenoweth 2011). Within such frameworks, some excellent services are provided, but some poor services operate without sanction. The National Disability Strategy is an example of an emerging change in measuring practice against higher level principles in human rights, which it is important to further develop in pursuing the rights of children and young people to safety and safeguarding. Holding practice to account against human rights principles which are applicable to all citizens is far preferable to 'special' standards for people with disability.

It is also imperative that research on the lived experience of children and young people informs the measurement of progress in keeping children safe, assisting them to protect themselves, and responding to the occurrence of violence, abuse and neglect in their lives. Their perspectives on the prevention, experience and responses to harm are invaluable in informing practice, policy and legal frameworks.





Section 3: What do we need?

Research shows consistently that the risk of maltreatment is reduced in the lives of children and young people with disability when:

- Their dignity and humanity is understood and respected and they are treated as equal citizens
- They are valued members of and actively included in their communities
- They are not isolated, either socially or physically
- They have a voice, and people who are prepared to hear and act on reports of harm
- They, and their families, have strong networks—which include people who are not paid to be there, who are there in the interests of the child and young person, and in for the long haul
- If they need formal supports, they have well resourced and supported workers, who receive training and professional development in a wide range of areas, but focused around facilitating the inclusion of the young person creatively and respectfully
- Capacity to resist maltreatment is being built at multiple levels—in individuals, within organisations, at the community level, and at a broad structural/societal level
- Resources, attention and energy is put to prevention (at the whole community level, for all children and young people with disability, and in responding better to those who experience harm).

(Astill, Bratel, & Johnston, 1999; Briggs & Hawkins, 2005; French et al., 2010; Higgins & Swain, 2010; Mephram, 2010; Robinson & Chenoweth, 2011; Unicef Innocenti Research Centre, 2007).

The experience of children and young people illustrated in this paper highlights the importance of preventing abuse, neglect and violence from taking place in their lives. For children and young people,

prevention of abuse and neglect is critical. Given the high abuse rates for adults with disability, response and recovery are essential emphases for policy and practice. For children and young people with disability, increased attention to prevention is vital—good, strong, embedded safeguards, accompanied by individualised supports for children to fill valued and meaningful roles and relationships in their communities will change the life course of coming generations of people with disability.

The lack of influence of children over adults and older children is also clear, and underlines that, while prevention and child protection programs aimed directly at children and young people with disability are vital, they cannot be relied upon as a strategy to completely prevent a complex and multi-faceted social problem.

A significant component of the broader disability policy and practice agenda about supporting people with disability addresses protection from maltreatment in the broadest sense. Through strategies and action plans to build relationships and develop individualised supports that embed children and young people with disability in their communities, risks of abuse and neglect will be reduced. However, specific and explicit attention needs to be given to how abuse prevention and reduction strategies and broader disability support strategies are co-constructed. There are some difficult tensions to be resolved here in managing what Fyson and Kitson (2007) identify as two parallel agendas about choice and independence and the right to personal safety. These have not been well addressed to date, resulting in risk to people with disability, either through over-protection or through having control unnecessarily vested in others.

Specific policy on abuse and neglect of people with disability traditionally takes an individualised approach to abuse and neglect, responding on a 'case by case' basis to individual instances of maltreatment. Response is frequently activated by complaints. While it is of course essential that individual crimes or abuses are responded to promptly, effectively and with compassion, attention must be given to changing the environments and interpersonal dynamics which may allow abusive cultures to develop and be sustained (DiRita, Parmenter, & Stancliffe, 2008; Robinson & Chenoweth, 2011).

The growing national emphasis on individualised funding, person centred supports and ‘mainstream’ inclusion of children and young people with disability brings with it both opportunities and challenges for preventing and responding to abuse and neglect. Increased protection, particularly from systemic and institutional abuse, may come through more diverse relationships and increased engagement in the community on a range of levels. However, the need to remain vigilant about the possibilities of abuse and neglect occurring at the hands of malicious individuals, unscrupulous businesses and service providers, and in the large scale environments children still use, such as schools, remains. A hybrid approach to addressing maltreatment may be needed—concurrently addressing prevention of harm and safeguarding approaches to abuse and neglect.

Preventing abuse and neglect

Disability abuse and child protection researchers are united in emphasising the importance of prevention in addressing the abuse and neglect. For children

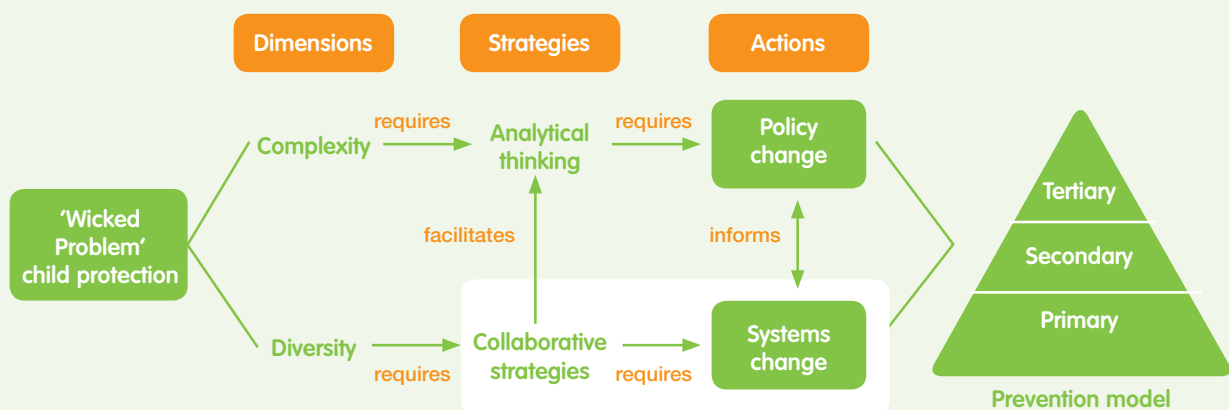
and young people, this is particularly critical—while it remains essential to have well structured, personalised and responsive systems in place to take action effectively when children and young people are harmed, it is of course far better that they never experience abuse and neglect in the first place.

There are a number of schemas which have been developed which aim to prevent abuse, neglect and exploitation. What they all share is a recognition that stopping maltreatment requires a multi-layered approach—just as the causes of maltreatment are multiple, so are the solutions. The pyramid, or tertiary model of prevention is the most common.

Pyramid model of prevention

This approach to prevention of abuse, neglect and exploitation is strongly shared in the disability abuse and child protection prevention research, and comes from the public health field. It addresses prevention of harm at three levels—primary, secondary and tertiary.

Figure 2: The Pyramid model of prevention, (Allen Consulting Group, 2008, p.13).



Primary prevention strategies are those aimed at the whole community to prevent problems from developing in the first place.

Secondary prevention is based on identifying and responding to vulnerable sub-groups in the population.

Tertiary prevention strategies are aimed at responding to children who have been abused or neglected in order to prevent a recurrence and reduce the harmful effects.

The social status of children and young people with disability is enmeshed with the success of approaches to prevention and response to abuse and neglect. Changing practice and policy in early intervention, inclusive education, and support for daily living (expressed through reforms such as the NDIS, the Gonski review and the National Disability Strategy) is building on principles of entitlement, dignity, respect, and participation. At its foundation, this also addresses the needs of children and young people to be safeguarded from abuse and neglect. However, specific additional strategies are required to counteract both historical legacies and the particular social and cultural circumstances of disability which make children and young people more likely to experience harm.

The charity/welfare model of disability still predominates in many organisations providing support to people with disability, and in the thinking of the general community. Within this paradigm, people with disability are cast as passive recipients of care, expected to be compliant and responsive to the agenda set by those who manage and staff organisations (Goggin & Newell, 2005). As is discussed at length in Section One of this paper, this is counter to research and experience about what keeps people safe from becoming victims of abuse.

Building capacity to resist abuse and neglect

While work is happening in prevention, much of it is at a theoretical or a small-scale level. There is an urgent need for state and national adoption of broad prevention strategies, and of capacity development strategies, and for the resourcing of these. Safeguarding, harm prevention, and protection and promotion of personal safety needs to be interwoven into the development and organisation of policy and practice at the broadest level, and consistently held in place as policy gets more localised.

Empowering children and young people with disability and those who support them to speak up early about concerns they have about possible and actual maltreatment is a critical activity. While this is an individualised endeavour, needing to be tailored to the needs of local communities and groups, resourcing at a national and state level is needed to enable the development of local initiatives. Education and training

for young people with disability, and for service providers and supporters in a range of contexts (schools, mainstream services, early childhood services, and so on) is also an essential component of abuse prevention and response, and strongly identified in the literature as a necessary component of a response (Briggs & Hawkins, 2005; Coulson Barr, 2012; French et al., 2010; Khemka, Hickson, Casella, Accetturi, & Rooney, 2009).

At the community level, engaging bystanders to take action against abuse and neglect of children and young people with disability is a way to broaden the base of support in both preventing harm and in ensuring when it happens, it is effectively responded to. Bystander prevention comes from the women's violence movement. Its practice addresses people's beliefs in social roles, peer-based social norms, as well as societal-level cultural norms and institutional support, or where there are weak sanctions against violence and inequality (Powell, 2011).

Bystander action is generally aimed at three different levels: at stopping a specific incident of violence; at preventing the risk of violence escalating; or in changing the systemic conditions under which violence occurs. For people to take action as bystanders, they need to:

- Know what abuse and neglect is
- Be aware of what harm is caused by abuse and neglect
- Feel they have a responsibility to intervene
- Feel they are able to intervene
- Have a desire to educate the perpetrator
- Have empathy for, and a desire to support the victim.

Research with school students addressing bullying (Twemlow et al. 2004) and sexual coercion (Rigby and Johnson (2004b; 2005; 2006) has demonstrated the effectiveness of bystander strategies which work to engage all stakeholders, rather than focusing only at the individual level or on one groups (such as students) (cited in Powell, 2011).

This connects directly to research, policy and practice on the importance of building on the protective elements of inclusive relationships, networks and communities for children and young people with disability.

Safeguarding approaches in addressing abuse and neglect

The concurrent rights of children to be safe and to self-determination have resulted at times in a reluctance to engage with questions of protection, and tensions where protection is viewed in opposition to the rights of people with disability to choice making. The complementary nature of participation and protection is clear when viewed through a rights lens (as the UNCRC amply demonstrates), and taking a safeguarding approach to abuse and neglect of children with disability helps to articulate this.

The concept of safeguarding is gaining currency in Australia, and has been a mainstay of approaches to abuse and neglect of people with disability and to child protection overseas, particularly in the UK. In Great Britain, approaches to the safeguarding of children with disability from abuse and neglect are based on a multi-jurisdictional response to the occurrence of harm, coordinated at the local level through Local Safeguarding Children Boards. There is a strong policy framework for preventing abuse and neglect and for responding to it when it occurs.

Local Safeguarding Children Boards have been independently evaluated, and found to operate with effectiveness when prioritising the coordination of child protection responses over prevention work, and when not overly resource constrained (France, Munro, & Waring, 2010).

The UK Government has targeted policies and practice guidelines to safeguarding children with disability, in line with both broader child wellbeing reforms (Working Together to Safeguard Children 2006) and specific action plans around people with disability (Staying Safe action plan 2008). A coherent framework of policy and practice guidelines are in place, based on the premise that:

Disabled children have exactly the same human rights to be safe from abuse and neglect, to be protected from harm and achieve the Every Child Matters outcomes as non-disabled children. Disabled children do however require additional action. This is because they experience greater and created vulnerability as a result of negative attitudes about disabled children and unequal access to services and resources, and because they may have additional needs relating to

physical, sensory, cognitive and/ or communication impairments (Murray & Osborne, 2009, p. 6).

Practice guidelines developed by the Department of Children, Schools and Families are intended to provide a framework for Local Safeguarding Children Boards, agencies and professionals who work with children at local levels to develop detailed ways of working collaboratively to safeguard children with disability (Murray & Osborne, 2009). They are addressed to workers in universal, targeted and specialist children's services, health, education, schools, adult disability support services, police, and all other professionals who might work with children in statutory, voluntary and independent sectors. They are rights focused, and include practice guidance for professionals; research background on safeguarding; relevant legislation and policy; resources to facilitate safeguarding and promote welfare and wellbeing; and information about training and professional development.

A multi-jurisdictional response to abuse and neglect is consistent with research which has found a lack of interagency coordination of allegations of abuse, neglect and exploitation of people with cognitive disability, particularly children (Coulson Barr, 2012; French et al., 2010).

Areas for further attention

The current national policy agendas which are relevant to children and young people with disability include increased attention and tertiary approaches to abuse prevention (the National Framework for Protecting Australia's Children) and human rights underpinnings (the National Disability Strategy). However, there appears to be less attention to how these principles are articulated meaningfully to make change for children and young people with disability. There is ripe opportunity to develop protective frameworks which actively and specifically work to prevent harm, which safeguard children and young people with disability and which respond quickly and effectively when they experience abuse and neglect.

While there are strategies which promote the rights and interests of children and of people with disability, there is a need for these to be drawn together coherently and systematically.

A national coordinated framework for the safeguarding of children and young people with disability would improve the way abuse and neglect of children with

disability is responded to across key life domains, and promote good practice in preventing maltreatment.

This should be developed in consultation with children and young people with disability, families and organisations working on their behalf. Ideally, it would include:

- A focus on the development of evidence which reliably identifies the scale of the problem in Australia: including the collection and analysis of statistical information about maltreatment at both state and national levels; and research with children, young people and families about the experience of abuse and neglect. This data should be made public to inform further research and policy.
- Differentiation between the demographics, circumstances and qualities of children and young people which result in a different experience of harm, such as Aboriginality, rural or remote location, social disadvantage, or cultural diversity.
- The development of mechanisms to monitor and review policies, procedures and practices which are aimed directly at preventing and responding to abuse and neglect of children with disability.
- Education for children and young people about personal safety, abuse and neglect, and how to take action on concerns. Education also for families to support the learning of children.
- Training for professionals working with children and young people with disability to safeguard their rights to safety; recognise harm; respond early and effectively to maltreatment; and support recovery of children and young people. This is important across both specialist and mainstream settings.
- Strategies to build community capacity to take action on concerns about possible abuse and neglect, and to understand and promote the rights of children and young people to safety.
- Support for organisations in developing frameworks around prevention and protection from maltreatment, in building capacity, and in educating stakeholders.

In addition to the development of a national response which draws together the disparate policy responses which include children and young people with disability, there is a need to increase the level of protection available to children and young people who experience maltreatment. Taking the guide of the successful UK approach, the Australian government should establish an independent, statutory, national protection mechanism for children with disability. It needs broad functions and powers to protect, investigate and enforce findings related to situations of exploitation, violence and abuse experienced by people with disability, and to address the complicated forms of violence and abuse that can arise due to the intersection of disability with other characteristics such as indigenous status, cultural status or gender.

A particular gap emerged in this review about the experience of abuse in education settings. There is a clear need for further research and policy attention to the experience of children and young people in inclusive and special schools, home schools and other education settings. It needs to encompass all forms of abuse and neglect, including bullying, harassment and victimisation, and take a prevention approach.

This paper has canvassed recent research which paints a picture of the damage done to children and young people through abuse and neglect. It describes current national responses to their experiences of harm, and proposes stronger recognition of the significance of these issues in a range of contexts, and a preventative and protective approach to their rights to safety and inclusion. Future priority focus areas may involve two parallel and interconnecting streams of work in promoting inclusion and protecting against harm for, and with, children and young people with disability. Underpinning both the experience of harm and promotion of personal safety is the centrality of inclusion and the fundamental importance of human rights in all responses to this traumatic problem in young people's lives.





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