



ACN 621 720 143

Committee Secretary
Senate Legal and Constitutional Affairs
Committee
PO Box 6100
Parliament House
Canberra ACT 2600
legcon.sen@aph.gov.au

7 February 2018

Dear Committee Secretary,

**Re: Family Law Amendment (Family Violence and Other Measures) Bill 2017
and Family Law Amendment (Parenting Management Hearings) Bill 2017**

People with Disability Australia (PWDA) welcomes the opportunity to provide a response to the Family Law Amendment (Family Violence and Other Measures) Bill 2017 and the Family Law Amendment (Parenting Management Hearings) Bill 2017.

PWDA is a leading disability rights, advocacy and representative organisation of and for all people with disability. We are the only national, cross-disability organisation - we represent the interests of people with all kinds of disability. We are a non-profit, non-government organisation.

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

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

PWDA is also a founding member of Disabled People's Organisations Australia ([DPO Australia](#)) along with Women With Disabilities Australia, First Peoples Disability Network Australia, and National Ethnic Disability Alliance. DPO's are organisations that are led by, and constituted of, people with disability.

The key purpose of DPO Australia is to promote, protect and advance the human rights and freedoms of people with disability In Australia by working collaboratively on

People with Disability Australia Ltd

Postal Address: PO Box 666
Strawberry Hills NSW 2012

Street Address: Level 10, 1 Lawson Square
Redfern NSW 2016

Phone: 02 9370 3100

Toll Free: 1800 422 015

Fax: 02 9318 1372

TTY: 02 9318 2138

Toll Free TTY: 1800 422 016

Email: pwd@pwd.org.au

TIS: 13 14 50 **NRS:** 1800 555 677

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areas of shared interests, purposes, strategic priorities and opportunities. DPO Australia is made up of four national peak DPOs that have been funded by the Australian Government to represent the views of people with disability and provide advice to Government/s and other stakeholders.

PWDA has extensive expertise in the area of violence, including domestic and family violence, against adults and children with disability.¹ Our comments on these Family Law Amendment Bills are based upon our long history of advocacy to raise awareness of and reform structural practices that lead to violence against people with disability.

People with disability experience violence in a range of ways, and at much higher rates than those without disability.² While men and boys with disability do experience violence (including domestic and family violence), the gendered nature of domestic and family violence must be acknowledged.

Women with disability are approximately 40% more likely to experience domestic and family violence than women without disability.³ Despite this increased prevalence, such violence against women with disability is often poorly recognised,⁴ and rarely identified or responded to as domestic and family violence. Furthermore, parents with disability (usually a mother) are up to ten times more likely than parents without disability to have a child removed from their care.⁵ This reasonable fear of losing custody of children can therefore contribute to an underreporting of domestic and family violence. Indeed, women with disability often experience violence for a longer period of time, which can result in more severe injuries for this group of women.⁶

Women with disability experience violence in a range of ways, many of which are characterised by power and control.⁷ This includes some unique forms of violence, such as the withholding of food, water, medication or support services; using physical restraints; threatening to withdraw care; threatening institutionalisation; threatening violence against guide dogs or other support animals; forced isolation; denying or

¹ See for instance other PWDA publications, including Rights Denied (available: <http://pwd.org.au/documents/pubs/RightsDenied2010.doc>), and Everyone, Everywhere (available: <http://pwd.org.au/documents/pubs/EveryoneEverywhere2009.rtf>).

² For more information, see: Frohmader, C., & Sands, T. 2015. *Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings*. Australian Cross Disability Alliance (ACDA); Sydney, Australia. pp 69-70. Available: http://pwd.org.au/documents/Submissions/ACDA_Sub_Sen_Inquiry_Violence_Institutions.pdf

³ Brownridge, D. 2006 *Partner violence against women with disabilities: Prevalence, risks and explanations*, Violence against Women, vol. 12, no. 9, pp. 805–22; Commonwealth of Australia, Department of the Prime Minister and Cabinet, 2016, op cit., p57; see also the Personal Safety Survey (2012), which outlines that of the women who reported experiencing violence in the last 12 months, 37% had disability or a long-term health condition.

⁴ DPO Australia, 2014. *Senate Standing Committee on Finance and Public Administration: Inquiry into Domestic Violence in Australia. Joint Submission from National Cross-Disability Disabled People's Organisations (DPO's)*, p11. Available: <http://www.pwd.org.au/documents/Submissions/SubDVSenate2014.doc>

⁵ Ibid p23.

⁶ Dowse L., Soldatic K., Didi A. & van Toorn G. 2013. *Stop the violence: addressing violence against women and girls with disabilities in Australia*. Background Paper for the National Symposium on Violence against Women and Girls with Disabilities, Sydney, 25 October. Hobart: Women With Disabilities Australia, p17. Available: http://wwda.org.au/wp-content/uploads/2013/12/STV_Background_Paper_FINAL.pdf

⁷ Salthouse, S. and Frohmader, C. 2004. 'Double the Odds' – *Domestic Violence and Women with Disabilities*, presented to the 'Home Truths' Conference, Melbourne 15-17 September 2004. Available: <http://wwda.org.au/issues/viol/viol2001/odds/>

trivialising disability; or inappropriate touching during care giving.⁸ Domestic and family violence services, disability services and responders to violence, such as the police and actors within the family law court, are often not equipped to identify or respond to these forms of violence appropriately.⁹

Subsequently, PWDA calls for additional training for family law court staff. Court staff, judicial officers and other family law professionals must receive disability awareness training, as well as training on domestic and family violence and working with people experiencing trauma. An increased awareness of the nature, causes and impacts of domestic and family violence, and its varied manifestations, would assist the family law system to more appropriately identify the unique safety risks that women with disability in particular may be experiencing.

In relation to the Family Law Amendment (Family Violence and Other Measures) Bill 2017 specifically, PWDA endorses the January 2017 Women's Legal Services Australia (WLSA) submission in response to the exposure draft of this Bill. We echo their recommendation for additional funding for legal assistance services such as community legal centres. We further recommend that these services be offered robust disability awareness training delivered by people with disability or their representative organisations, to enable them to better respond to the needs of this cohort.

Regarding the Family Law Amendment (Parenting Management Hearings) Bill 2017, PWDA also endorses the recommendations made by WLSA to this inquiry. We are concerned to ensure that any new model for resolving family law disputes be based on evidence and research, as the implications of new family law processes can have huge impacts on the safety of women and children. Such a model should be thoroughly informed by people who have lived experience of domestic and family violence and the current family law system. Given the aforementioned disproportionate rates of domestic and family violence against women with disability, this cohort must also inform the development of any changes to the family law system.

As suggested by WLSA, we also believe that decisions regarding Parenting Management Hearings should be delayed until the Australian Law Reform Commission completes its upcoming review of the family law system.

PWDA thanks the Senate Legal and Constitutional Affairs Committee for the opportunity to contribute to these Family Law Amendment Bills, and we would welcome further consultation on any of the matters we have raised.

Yours sincerely,

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⁸ French, P., Dardel, J., and Price-Kelly, S. 2010. *Rights Denied: Towards a national policy agenda about abuse, neglect and exploitation of persons with cognitive impairment*, People with Disability Australia. pp23-27. Available: <http://pwd.org.au/documents/pubs/RightsDenied2010.doc>

⁹ *Disability Rights Now: Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities*, August 2012. Pp111-112. Available: <http://www.afdo.org.au/media/1210/crpd-civilsocietyreport2012-1.pdf>

Senior Policy Officer