



Tabled, by leave,

Mr Graham

Clerk of the Parliaments

BILL 2023 24

AGEING AND DISABILITY COMMISSIONER AMENDMENT BILL 2023

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The *Ageing and Disability Commissioner Act 2019* establishes an independent agency of the NSW Government to promote the rights of adults with disability and older people, and protect them from abuse, neglect and exploitation.

The Ageing and Disability Commission performs a range of public interest functions, including:

- responding to reports about abuse, neglect and exploitation of adults with disability and older adults
- consulting with the Ageing and Disability Advisory Board on matters relating to abuse, neglect and exploitation of adults with disability and older adults
- overseeing the Official Community Visitor Scheme.

Section 36 of the Act required the Minister to commission an independent review of the Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

Mr Alan Cameron AO conducted the independent statutory review of the Act, which included a public consultation process. A broad range of stakeholders engaged with the process, including organisations representing people with disability and older people. The review was tabled in Parliament on 25 May 2023.

This Bill amends the *Ageing and Disability Commissioner Act 2019* to implement most of the recommendations made in the independent statutory review. In doing so, the Bill will strengthen the ability of the Ageing and Disability Commission to protect and promote the rights of adults with disability and older adults.

A targeted consultation was conducted on the drafting of the Bill, including groups representing older people and people with disability, as well as legal stakeholders and government agencies. The targeted consultation received largely supportive submissions.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill strengthens the ability of the Ageing and Disability Commission to perform its important functions, including in relation to safeguarding adults with disability and older adults who are subject to, or at risk of, abuse, neglect or exploitation.

For example, it will extend the circumstances in which the Commissioner may investigate allegations without the consent of the relevant adult to cover situations where the Commissioner cannot obtain access to the person. This is intended to cover situations such as where the relevant adult cannot be contacted because an alleged perpetrator is blocking access. Stakeholders considered that the Commissioner's inability to gain access to some abused adults in order to seek consent was a significant issue affecting its ability to investigate.

Another example is that the Bill requires service providers to notify the Ageing and Disability Commission about contact details. This is a practical change that will ensure that the Official Community Visitor scheme – which provides an important safeguard for vulnerable adults by enabling independent official visitors to visit premises where adults live in fulltime care – is kept apprised of new services or changes to the addresses of services.

A further key objective of the Bill is to require that the Ageing and Disability Advisory Board – which includes community members and advises the Commissioner on relevant matters – must include two or more older adults. There is already a requirement that board members include two or more people with disability. But the Act does not stipulate any requirements about members with lived experience of being an older adult, even though the Commissioner’s safeguarding functions include older adults. By adding an additional requirement about board membership, the Bill will ensure that the Ageing and Disability Advisory Board better reflects the diversity of the community and is apt to all the Commissioner’s functions.

Options: What alternative policies and mechanisms were considered in advance of the Bill?

Various policy options were considered during the independent statutory review that was conducted by Mr Alan Cameron AO. Further detail can be obtained in the statutory review report, which was tabled in Parliament on 25 May 2023.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The independent review sets out a detailed analysis of all the relevant policy issues.

Pathway: What are the timetable and steps for the policy’s rollout and who will administer it?

The Bill will commence on assent.

The policy changes made by the Bill largely relate to the functions and operations of the Ageing and Disability Commission, which will administer those policy changes.

For example, section 24A will require that a service provider that provides a visitable service must give the Ageing and Disability Commissioner its contact details and details about the location of its service within one month. The Commissioner will administer this part of the policy rollout and ensure that service providers are aware of their new obligation.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

As part of the independent statutory review process, a discussion paper was published and the public was given the opportunity to make submissions. The submissions received informed the recommendations Mr Cameron made. The Department of Communities and Justice then undertook further targeted consultation on the Bill that was drafted to implement the recommendations. Stakeholders were generally supportive of the Bill’s reforms. The key stakeholder, the Ageing and Disability Commission, was closely consulted and supports the Bill.