

On behalf of the New South Wales Nurses and Midwives' Association, along with the Australian Nursing and Midwifery Federation NSW Branch, we welcome the opportunity to provide evidence to the Committee today.

In NSW our membership includes over 10,000 nurses, enrolled nurses and assistants in nursing working in either the government or non-government aged or disability sector, state or federal.

As noted in our submission, the primary or perhaps more correctly the final impetus - if one was needed - to establish an Ageing and Disability Commissioner was the report tabled by the Legislative Council Portfolio Committee No.2 - Health and Community Services following its inquiry conducted last year entitled *"Implementation of the National Disability Insurance Scheme and the provision of disability services in New South Wales"*.

reiterated the need to

As a result of the evidence it received, it : establish
"... a Public Advocate with the powers to investigate cases of potential abuse, neglect and exploitation of people with disabilities, as well as being the lead agency to liaise with other government and non-government stakeholders and coordinate responses of alleged abuse."

The Association strongly believes that protection and promotion of the rights of adults with disability and older adults from abuse, neglect and exploitation is essential. Accordingly we share the views strongly expressed in the above Committee's final report.

However, the Association does believe that by confining this Office to adults with disability and older adults is a potential *missed opportunity* that leaves many vulnerable adults without adequate protection.

This is a view shared by and noted in other reports or the approach adopted in other jurisdictions. For example, the Australian Law Reform Commission Report set out that any model seeking to protect *at risk adults* should be approached as follows:

- That an at risk adult would be people aged 18 years and over who:
 - have care and support needs; and
 - are being abused or neglected, or are at risk of abuse or neglect; and
 - are unable to protect themselves from abuse or neglect because of their care and support needs.

In South Australia, the Association's understanding is that the relevant legislative architecture was recently amended so that a vulnerable adult is "*an adult person who, by reason of age, ill health, disability, social isolation, dependence on others or other disadvantage, is vulnerable to abuse*". (s 3) Abuse includes physical, sexual, emotional, psychological, and financial abuse of the vulnerable adult (s 4). It also includes a denial, without reasonable excuse, of the basic rights of the vulnerable adult. (s 4)

The Association shares the view that many adults are vulnerable due to a variety of reasons, including homelessness, social disadvantage and control by another person. Whilst the establishment of the office of Ageing and Disability Commissioner is a good start, it still leaves much work to do.

→ s4(3)(b)

As noted in our submission, the ideal would be that the powers and functions of the Commissioner and its office was able to ensure and promote the protection of *any* adult of *any* age who is considered vulnerable.

The issue of consent is also a difficult one. Whilst ensuring that consent is sought where possible, there will be and are situations that obtaining informed consent will not be possible. Many adults, particularly those being abused by care givers or relatives are reluctant to take action. Circumstances under which abuse should be acted upon without consent should be examined in relation to the degree of risk if no action is taken.

Having said that, we have had insufficient time for us to consult our members in any comprehensive way on the Bill itself.

However, we did undertake a large survey in 2016 amongst members working in the aged and disability workforce. This highlighted that many frontline workers lack guidance and education on how to recognise and respond to abuse and the scope of their responsibility when supporting people who lack capacity with decisions that might place them at risk of being abused.

In addition, it highlighted that the risk of abuse is heightened when there are insufficient staff to provide safe care. Both these matters will need to be given attention by the Commissioner.

We seek leave to table a copy of this Report for the benefit of the Committee and its consideration, and will also provide an electronic copy to the Committee secretariat following today's hearing.

~~In addition, the findings also highlighted the need to give attention to platform care agencies which will fall outside the remit of the Aged Care Quality and Safety Commission. This is a gap that potentially places many members of the community vulnerable to abuse.~~

For these reasons we believe it is essential to ensure that workforce representatives and community advocacy organisations are included on the Ageing and Disability Advisory Board.

In closing, the Association welcomes the initiative, it is long overdue, albeit the success or otherwise of the Ageing and Disability Commissioner will be largely dependent on it being sufficiently resourced and has available to it sufficient recurrent funding to adequately undertake their function and to be suitably responsive to concerns/complaints raised.

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Much will also
revolve as we
underpinned
by core
regulation

↑ Consultation on
the regulations
that will set out
the practical
framework &
report / investigate

Welcome an
opportunity to
do so +
contribute...

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