

**INQUIRY INTO PROVISIONS OF THE AGEING AND  
DISABILITY COMMISSIONER BILL 2019**

**Organisation:** Physical Disability Council of NSW

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**Physical Disability Council of NSW**  
Ordinary People Ordinary Lives

Submission to the NSW Legislative Council's Standing Committee  
on Social Issues inquiry into the provisions of the Ageing and  
Disability Commissioner Bill 2019

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## **Who is the Physical Disability Council of NSW?**

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW.

Our core function is to influence and advocate for the achievement of systemic change to ensure the rights of all people with a physical disability are improved and upheld.

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship.
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (i.e: self-advocate).
- To educate and inform stakeholders (ie: about the needs of people with a physical disability) so they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

## **Introduction:**

The Physical Disability Council of NSW (PDCN) appreciates the opportunity to provide feedback to the NSW Legislative Council's Standing Committee on Social Issues inquiry into the provisions of the Ageing and Disability Commissioner Bill 2019 (referred to henceforth in this submission as the 'Bill'.)

PDCN supports the formation of the Ageing and Disability Commissioner, and the overall objects to protect and promote the rights of adults with disability and older adults from abuse, neglect and exploitation, however believe that this Bill could be strengthened by the addition of the following recommendations.

Given the incredibly short time frame in which to prepare a response, we will list our recommendations in point form below.

## **Recommendations:**

1. That the Bill include children and young people, ensuring all ages are covered by a Commissioner with specialist disability expertise and oversight
2. That all functions of the Commissioner, as expressed on page 6, Clause 12 (1) (a) to (g) be independent and not subject to the control or direction of the Minister, not just those expressed in Clause 12 (3) (a) to (c);

3. That in ensuring independence, the Commissioner is given the right to employ their own staff;
4. The addition of increased powers of the Commissioner in the conduct of investigations; and to administer penalties for failing to comply with the direction of the Commissioner, including jail terms as well as penalty points;
5. We would agree with the NSW Opposition's recommendation No 10<sup>1</sup> that there should be the addition of the requirement to refer to the Commissioner of Police, or Director of Public Prosecutions, any evidence in a report of a criminal offence;
6. That the wording on page 14, Clause 24 (3) be amended to 'An annual report **MUST** include any recommendations for administrative actions or changes in laws of the State that the Commissioner considers necessary; and that an additional note (4) be added following (3) reading as follows –

'An annual report must include information on the number of referrals made to the Commissioner, the number acted upon by the Commissioner and the number referred elsewhere (and to whom it was referred.)'

The collection and reporting of vital data ensures that systemic issues can be identified and addressed, and as per the functions of the Commissioner page 6, Clause 12 (1) (e) assists in the fulfilling the Commissioner's requirement to report on systemic issues;

7. That the Death Review Team, currently sitting with the NSW Ombudsman, is also moved to within the Ageing and Disability Commissioner's oversight, as we believe this team provides an in-depth view into issues surrounding the death of a person with disability and this would strengthen critical feedback on these issues and any contributing systemic problems;
8. We also note the wording on page 7 Clause 13(8) could leave it open to the Commissioner, or others, to take a limited view of their scope. ***"If the Commissioner is of the opinion that a report, or part of a report, constitutes a complaint that may be made to any of the following persons or bodies, the Commissioner must refer the report, or the part of the report, to the person or body"***. We feel there may be cases where it would be important for the Commissioner to work collaboratively with other agencies in matters where they have shared interests, for example, a complaint involving both NDIS provider and personal abuse issues, or the intersection of health and discrimination or abuse;
9. As per the requirement on page 12, Clause 21 (1) (h) regarding the provision of information to persons using visitable services about advocacy services available to help

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<sup>1</sup> NSW Legislative Assembly, Amendments for Consideration c2019-003E.pdf

them with grievances and concerns and, in appropriate cases, to assist them to obtain advocacy services by Community Visitors, we recommend that the NSW government commit to continued funding of specialist, independent community advocacy organisations post June 2020 in order to ensure these services are still available to support both the Commissioner and their operations, and vulnerable people with disability whom the Bill aims to protect;

10. PDCN would note that the independent specialist disability advocacy and peak representation sector acts as a further protective mechanism having direct links with people with disability and their individual and collective needs and concerns, and link them directly with the Commission where the need arose, as well as provide expertise to the Commissioner and the Advisory Board on systemic issues identified by them 'on the ground'.

PDCN would recommend the inclusion of a selection of systemic disability advocacy peak representation on the Advisory Board in order to provide this sector expertise.