

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

**Organisation:** NSW Nurses and Midwives' Association

**Date Received:** 30 May 2019

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# Submission to

# Inquiry into the provisions of

# the Ageing and Disability

# Commissioner Bill 2019

MAY 2019

# Recommendations

1. The title and remit of the Ageing and Disability Commissioner and provisions of the Commissioner Bill should be extended to accommodate protection of all vulnerable adults.
2. Circumstances under which abuse should be acted upon without consent should be widened and examined in relation to degree of risk if no action is taken.
3. The Commissioner should undertake a period of widespread engagement with community, disability and aged care workers to communicate these changes and protections.
4. Membership of the Ageing and Disability Advisory Board should include consumer advocacy organisations and workforce representatives.

# Foreword

The New South Wales Nurses and Midwives' Association (NSWNMA) is the registered union for all nurses and midwives in New South Wales. The membership of the NSWNMA comprises all those who perform nursing and midwifery work. This includes: registered nurses; enrolled nurses and midwives at all levels including management and education, and assistants in nursing and midwifery.

The NSWNMA has approximately 65,000 members and is affiliated to Unions NSW and the Australian Council of Trade Unions (ACTU). Eligible members of the NSWNMA are also deemed to be members of the New South Wales Branch of the Australian Nursing and Midwifery Federation.

NSWNMA strives to be innovative in our advocacy to promote a world class, well-funded, integrated health system by being a professional advocate for the health system and our members. We are committed to improving standards of patient care and the quality of services of all health and aged care services whilst protecting and advancing the interests of nurses and midwives and their professions.

We currently have over 10,000 members who work in ageing and disability who are regularly consulted with respect to matters specific to their practice.

We welcome the opportunity to provide a submission to this Inquiry.

This response is authorised by the elected officers of the New South Wales Nurses and Midwives' Association.

## CONTACT DETAILS

### **NSW Nurses and Midwives' Association**

50 O'Dea Avenue  
Waterloo, NSW 2017

(02) 8595 1234 (METRO)  
1300 367 962 (RURAL)  
gensec@nswnma.asn.au



Noting the short time frame to provide a submission we wish to make the following comments in relation to this Inquiry.

Firstly, the NSWNMA acknowledges the work and impetus for this Bill, which primarily arises from 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”*.

In its final report, the Committee was rightly alarmed *“... by the figures presented by the NSW Ombudsman in relation to matters involving people with disability and abuse within family and community settings.”*<sup>1</sup>

As a result it strongly urged the establishment of *“... 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.”*<sup>2</sup>

The NSWNMA 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, it must be understood that the evidence received by the Committee, and therefore its recommendations, were made within the confines of its remit ie the implementation of the NDIS and the provision of disability services in NSW.

The NSWNMA believes 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.

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<sup>1</sup> Legislative Council Portfolio Committee No.2 - Health and Community Services, Report 51 - December 2018, pp 168.

<sup>2</sup> Ibid.

There are many adults who are vulnerable due to homelessness, social disadvantage and control by another person. There are also those who fall within the groups defined in Section 4 **Objects and principles of Act** (for example see specifically s4(3)(b)) who do not have a disability but face significant barriers within the community and are as a result extremely vulnerable.

The title and remit of the Ageing and Disability Commissioner and provisions of the Commissioner Bill should therefore be extended to include anyone considered a 'vulnerable adult'. This would enable the powers and functions of the Commissioner to ensure protection of *any* adult of *any* age who is considered vulnerable.

The NSWNMA notes that in the Explanatory Notes to the Bill, it states the following: *'The Commissioner must obtain the consent of an adult with disability or older adult in order to conduct an investigation into an allegation of abuse, neglect or exploitation of the adult, except in certain circumstances.'* It is however noted that s13(10) of the Bill prescribes the situations that consent may not be possible or necessary. The NSWNMA believes that the scope of the circumstances in which consent would not be required should be broadened to ensure protection of those who are unable to provide informed consent. 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.

The protection of the identity of those who raise issues of abuse in good faith is welcomed and the NSWNMA would suggest that the Commissioner undertakes a period of widespread engagement with community, disability and aged care workers to communicate these changes and protections.

The establishment of an Ageing and Disability Advisory Board is also welcomed. The NSWNMA would recommend membership of the Board to include consumer advocacy organisations and workforce representatives.

In closing, the NSWNMA welcomes this initiative and the Bill, 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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# Submission to the Inquiry into the provisions of the Ageing and Disability Commissioner Bill 2019

**MAY 2019**



## **NSW NURSES AND MIDWIVES' ASSOCIATION**

AUSTRALIAN NURSING AND MIDWIFERY FEDERATION NSW BRANCH

[www.nswnma.asn.au](http://www.nswnma.asn.au)

50 O'Dea Avenue  
Waterloo NSW 2017

**T** 8595 1234 (METRO) • 1300 367 962 (NON-METRO)

**F** 9662 1414

**E** [gensec@nswnma.asn.au](mailto:gensec@nswnma.asn.au)