

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

**Organisation:** NSW Disability Advocacy Alliance

**Date Received:** 30 May 2019

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## **NSW Disability Advocacy Alliance**

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

30 May 2019

Serena Ovens  
Convenor

NSW Disability Advocacy Alliance

[admin@standbyme.org.au](mailto:admin@standbyme.org.au)

The NSW Disability Advocacy Alliance is a coalition of independent disability advocacy, information and peak representative organisations currently funded by the NSW government, who have joined together to influence and advocate for the rights of all 1.4 million people living with disability in NSW to ensure they get a fair go, a say in the policies and decisions that affect their lives, and to continue to work towards a better system where people with disability are fully included, valued citizens in NSW community.

Today, and always.

### **Members of the NSW Disability Advocacy Alliance:**

#### **Ability Advocacy**

#### **Action for People with a Disability**

**Blind Citizens NSW** – Statewide

**Citizen Advocacy Western Sydney** – West and North Western Sydney

**Deaf Blind Association of NSW** – Statewide

**Disability Advocacy** – Statewide, with offices in Newcastle, Taree, Port Macquarie, Coffs Harbour, Bathurst, Broken Hill, Dubbo and Parramatta

**Disability and Aged Information Services Inc (DAISI)**– Ballina

**Ethnic Community Services Cooperative (ECSC)**– Sydney Inner West

**Family Advocacy NSW** – Statewide

**First People’s Disability Network (FPDN)**– Statewide

**Information on Disability Education and Awareness Services (IDEAS)** – Statewide; with offices in Tumut and Campbelltown

**Intellectual Disability Rights Service (IDRS)** – Statewide

**Multicultural Disability Advocacy Association (MDAA)** – Statewide

**Muscular Dystrophy NSW (MDNSW)** - Statewide

**Council for Intellectual Disability (NSWCID)** – Statewide

**Physical Disability Council of NSW (PDCN)** – Statewide

**People with Disability Australia (PWD)** – Statewide

**Radio for the Print Handicapped (2RPH)** - Statewide

**Regional Disability Advocacy Services (RDAS)** – Albury/Wodonga and Wagga Wagga

**Spinal Cord Injuries Australia (SCIA)** – Statewide

**Stroke Recovery Association** - Statewide

**Synapse** – Statewide

## **Introduction:**

The NSW Disability Advocacy Alliance (referred to from here on as the 'Alliance') thanks the NSW Legislative Council's Standing Committee on Social Issues for the opportunity to respond to the inquiry into the provisions of the Ageing and Disability Commissioner Bill 2019 (referred to from here on in as the 'Bill'.)

We value the opportunity to provide comment through our written submission and would be happy to provide oral evidence should the committee wish us to do so at its upcoming hearings, though we wish to address our concern as to the incredibly short time frame (24hrs) given to produce our submission.

## **Suggested Revisions:**

The Alliance advises that it is, on the whole supportive of the Bill, the establishment of the Commissioner, and its overall objects to protect and promote the rights of adults with disability and older adults from abuse, neglect and exploitation.

However, we would make the following recommendations with regard to strengthening the Bill:

- 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).
- That in retaining this independence the Commissioner has the right to employ their own staff;
- The addition of increased powers of the Commissioner in the conduct of investigations;
- The addition (or clarification) of the Commissioner's powers to uphold or enact upon outcomes of any investigations, especially where an individual case is likely to be a part of a larger systemic issue;
- That the Death Review Team, currently sitting with the NSW Ombudsman, is also moved to within the Ageing and Disability Commissioner's oversight, strengthening

critical feedback and capacity to make further investigations on the issues surrounding the death of a person with disability and any contributing systemic issues.

- We note the wording on page 7 Clause 13(8) leaves 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 believe there will be likely cases where it would be important for the Commissioner to work collaboratively with other agencies in matters where they have shared interests, for example, if a complaint comes in that involves both NDIS provider issues and personal abuse issues. It would be unfortunate if this section was unintentionally restrictive.
- We call for clarification of wording on page 7 Clause 13 (10) (b) requiring the Commissioner to seek the consent of the adult to whom an allegation has been made, and the nature of an allegation ‘**so serious**’ that it is not necessary to obtain consent.
- That the Advisory Board is appointed by the Minister in consultation with the Commissioner, and has representation from the specialist disability advocacy sector, given that this pertains to the Commissioner’s understanding and awareness of systemic issues that may lead to the abuse, neglect and exploitation of people with disability (page 6, Clause 12 (1) (e))
- We note that both the Community Visitors and the Commissioner look to draw on the expertise and advice of individual and systemic advocacy in the execution of their duties – Clauses 12 (1) (c) through (e) and Clause 21 (1) (h) and hence call on the NSW government to commit to the continued funding of independent specialist disability advocacy, information and peak organisations post June 2020. This ensures the Commissioner and people with disability have continued access to the services they need to assist them with grievances and concerns, to assist them to make a complaint to the Commissioner, or alert the Commissioner to systemic issues identified at community level, and provides an additional support and protective mechanism for vulnerable citizens.
- In the context of the recently announced Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, we support expansion of the term “abuse, neglect and exploitation” to include the term “violence”, therefore reading “violence, abuse, neglect and exploitation” throughout the Bill.

- We also support changing the reference to “adult(s) with disability” to “person(s) with disability”.
- We support strengthening the powers of the Commissioner to conduct Public Inquiries into matters relating to “violence, abuse, neglect and exploitation” of people with disability.