

**Submission  
No 10**

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

**Organisation:** Australian Services Union NSW & ACT (Services) Branch

**Date Received:** 30 May 2019

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**Australian Services Union  
NSW & ACT (Services) Branch**

## **ASU Submission**

**Inquiry into the provisions of the Ageing and Disability  
Commissioner Bill 2019**

**Committee Social Issues**

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**Date:** 30 May 2019

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30 May 2019

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To whom it may concern

**SOCIAL ISSUES COMMITTEE: INQUIRY INTO THE PROVISIONS OF THE AGEING AND DISABILITY COMMISSIONER BILL 2019**

Please find the Australian Services Union NSW and ACT (Services) Branch Submission to the Social Issues Committee.

The Australian Services Union (ASU) represents workers throughout the not-for-profit and the social and community services sector. The NSW and ACT Branch of the ASU has members throughout NSW and the ACT. Our members work throughout the disability sector and in the provision of community-based services to ageing members of our communities.

The ASU represents workers who are employed in local community services, regional and state-wide organisations, community partnerships and hubs, all major charitable organisations and trusts, all of the social and community sector peak organisations, campaigning and advocacy organisations and all of the major faith-based organisations. The ASU is therefore in the unique position of representing workers in almost every non-government and not-for-profit organisation in NSW that provides any level of service for people with a disability and in many organisations that provide services for ageing members of our communities.

While incorporating comments by our members on their professional practice, the Union's submission is a statement that reflects public concern and matters of public policy. We particularly address the proposed legislation in relation to community engagement. As the ASU represents people employed throughout the disability sector and in critical roles within the aged services sector, our submission specifically addresses workforce development issues in both sectors.

We support the view that the safety and wellbeing of those members of our communities who are ageing or living with a disability is a matter of public concern, professional practice and public policy. We therefore welcome with great optimism the proposed establishment of a NSW Commission with the objective to 'protect and promote the rights of adults with disability and older adults and to protect those adults from abuse, neglect and exploitation'.

This Inquiry therefore provides an invaluable opportunity to address issues that we believe are critical to the success of the proposed Commission.

- That while the Bill proposes the establishment of an Ageing and Disability Commission, these are very different communities with very different needs and therefore are best serviced by two separate Commissioners; one dealing with Ageing and one dealing with Disabilities. This reflects the current Commonwealth arrangement in which there are separate Quality and Safeguards Commissioners for aged people and for people living with a disability, as there are also in the Commonwealth Human Rights Commission.
- That the Bill establishes functions of the Commission dealing with four very significant areas. We hope that each of these areas will receive equal priority and resources. Without diminishing issues of individual abuse, neglect and exploitation, we hope that Commissioners will be proactive, advocating for whole-of-government strategic policy and reform. We strongly support the role of the Commissioners in dealing with systemic issues and community engagement.
- That major changes to Commonwealth and State legislation and policy, including the establishment of the NDIS and Commonwealth aged care reforms have not been supported by strategic investment or reform to support the workforce in either area.

In the context of major federal, state and local government reforms throughout the social and community services sector, specifically in the disability sector and aged services sector, this Parliamentary Inquiry comes at a very important time for often vulnerable people and communities and therefore is very important for all ASU members. We thank the Committee for conducting this very important Inquiry and for providing an opportunity for the ASU to make this submission, which we hope will make a positive and constructive contribution to your thinking and your work.

Yours sincerely

**Branch Secretary  
Australian Services Union NSW & ACT (Services) Branch**

## **The ASU and our members**

The ASU in NSW represents workers throughout the social and community services sector. Of specific relevance to this Inquiry, the ASU represents workers who are employed in the following areas:

- Disability Services;
- Aged Care Services;
- Community Transport;
- Youth and Child Protection;
- Out of Home Care;
- Refuges for Women, Children, Families, Young People and Men;
- Homelessness, Housing and Tenancy Services;
- Family Support Services;
- Health and Mental Health;
- Alcohol, Gambling and Other Drugs of Addiction and Rehabilitation;
- Rape, Domestic and Family Violence;
- Aboriginal and Torres Strait Island Services;
- Migrant and Settlement Services;
- Community Legal Services;
- Community and Neighbourhood Services;
- Policy and Advocacy Services.

ASU members are highly skilled practitioners. They hold qualifications in law, psychology, management, social sciences, welfare work, disability work, social work, youth work, child protection, aged care and community work, mental health, drugs and alcohol counselling and a long list of other specialist qualifications. Our members also include clergy of many faiths.

ASU members work with vulnerable people of all ages, particularly those with physical, intellectual and mental health disabilities in their own homes, in out-of-home care, in refuges and in after care. Our members also work with those same people when they are homeless, living in cars, on the streets, 'couch surfing', and in other dangerous circumstances. Our members provide case work, crisis intervention, referral, financial and other support for individuals of all ages and families experiencing poverty, isolation and homelessness, gambling, drug and alcohol addictions, disabilities, mental health issues, overwhelming legal and financial problems, those who are refugees or have other settlement issues.

Our members work with people of all ages and with all disabilities who are experiencing or escaping violence and those who are trying to deal with their cultural or sexual identity.

Many of the workers, agencies and services to which we refer in this submission are government funded. Some are dealing with extremely distressing and even dangerous people and situations. At their request and for these reasons we have de identified individual workers and organisations.

## **The role of the Aged Care Commissioner**

The ASU represents workers in the Aged Services sector who are 'case managers', also called 'case coordinators. Case coordinators and case managers are in many instances the first person to be contacted by an ageing person or their family either to alert them to a problem or to seek advice and assistance. Case managers are employed by service providers to:

- Visit clients in their own homes and provide information about what services are available under the Commonwealth Government's Home Care Packages program;
- Assist the client to make choices about which services are appropriate to the needs of the client;
- Coordinate service delivery to clients in their own homes;
- Provide case management, ensuring the client's overall welfare.

Clearly most Australians would hope that older Australians will be able to age with dignity and respect and without abuse. This hope is reflected in federal and state government policy and protocols around reporting of abuse.

In NSW the *Interagency protocol for responding to the abuse of older people 2007*<sup>1</sup> provides the framework for agencies when responding to the abuse of older people. The Protocol defines abuse as a crime which should be reported to the NSW Police. It also provides other referral contacts for aged care workers in circumstances where abuse is suspected, alleged, disclosed or witnessed.

While there is no doubt the community *hopes* that older Australians will not be abused, significant obstacles remain around reporting of what is anecdotally a significant problem. This is not unlike the obstacles confronting reporting of violence against women and children. Again, clearly the community hopes that women and children will not be abused and yet we know that they are. Moreover, whether the abuse is physical, psychological, financial or another form, the perpetrators are frequently the same - other family members. This means that reporting often becomes very difficult for the person living with violence. Apart from the complexities implied by the deep emotional issues in any family, victims of abuse may be wholly or significantly dependent upon that family member for their home, transport to medical and other appointments and even their food and clothing. Despite the existence of information about abuse often those living with abuse are unaware of this information and in any case are unable to access it, particularly if it is provided in an online format.

### **The role of the community sector in the provision of services to ageing people in NSW**

The issue of accessible information and assistance highlights the vital role of local community services. One example of a local community-based service that provides a 'soft entry' access point for older people in in a Sydney metropolitan community centre. Their programs provide an opportunity for professional contact and unobtrusive monitoring of the welfare of participants. They establish strong interpersonal networks and provide essential information so that individuals who find themselves at risk have an opportunity to ask for help or report problems. In the case of a crisis there are supports and referral opportunities.

#### *Knit & Natter group for isolated seniors:*

- Provides regular social contact for seniors who are isolated, often having severe physical and mental health issues, or suffering elder abuse;
- Provides an opportunity to develop friendships and social networks;
- Provides respite for carers (partners and children);
- Provides an opportunity for professional at the centre to monitor health and wellbeing, provide referrals and crisis intervention where necessary.

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<sup>1</sup> <https://www.adhc.nsw.gov.au/data/assets/file/0011/228386/InteragencyProtocol1.pdf>

*The service coordinator said: “The group has intergenerational aspect where local primary school students often join the group during lunch and mums with young babies and toddlers connect with seniors fostering an almost grandparent/grandchild connection.”*

#### *Seniors Choir:*

- Provides regular social contact for seniors who are isolated, often having severe physical and mental health issues, or suffering elder abuse;
- Provides an opportunity to develop friendships and social networks;
- Provides respite for carers (partners and children);
- Provides an opportunity for professional at the centre to monitor health and wellbeing, provide referrals and crisis intervention where necessary;
- Choir often performs in community events inviting family and friends increasing self-esteem and positivity of self.

#### *Tenants’ Group*

- Aged participants are residents of public and community housing programs;
- Aged residents often suffer physical and mental health issues and disabilities, are often isolated and suffering post-traumatic stress related issues arising from escaping domestic violence, often living in social and financial disadvantage;
- This program is targeted at forming community networks, increasing social cohesion and capacity building – living skills, budgeting, healthy cooking, mental health first aid, etc.

These programs are all supported by NSW Government funding through the Community Builders Program under the Targeted Earlier Intervention Programs (TEIP) funding for which is currently being reviewed.

### **Workforce issues**

Like much of the rest of the world, Australia has a rapidly ageing population<sup>2</sup>. As previously discussed, social taboos, lack of access to services and other obstacles exist that complicate and hinder the recognition and reporting of abuse. There has been a huge and rapid increase in the number of private providers entering the aged care sector and the opportunity for profit have been recognised by many large companies that have not previously operated in the sector. The Commonwealth Government’s aged sector reform package and Federal Budget imperatives demand that case managers deliver the highest quality service at the lowest possible price. In this context it increasingly difficult for case managers to do much more than coordinate service delivery to their aged and often vulnerable clients. Yet those same case managers are often the only access that many older Australians have to assistance when they are at risk or in crisis.

Our members are concerned that there is a lack of basic entry level training for case managers so that they are able to identify signs of abuse and know how to deal with this problem. While it is true that both the state and federal governments have policies and procedures, these are more honoured in the breach.

A case manager who chooses to remain anonymous said: *“There is a general lack of knowledge and understanding of policies and procedures and they are not a high priority for most organisations. They are simply not at the top of most managers’ minds because they are overwhelmed with trying to keep their service on top – the competition is fierce.”*

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<sup>2</sup> <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/2015-Intergenerational-Report>

Many companies that are now providing aged care services have themselves expanded rapidly and they have also rapidly increased their workforce. While some organisations have clearly made a significant commitment to careful selection of employees and have prioritised training, others have not. Case managers often work alone, isolated from each other and other workers in an organisation by the nature of their work. These issues compound the lack of opportunity for training, effective supervision, mentoring and accountability.

Current reporting procedures are complex, poorly understood and not well publicised among workers in the aged care sector. They are almost completely unknown among many older Australians, particularly those who are likely to be most vulnerable: having language, cultural and literacy issues, being homeless, with a mental or physical disability or living in poverty. The Union therefore endorses current discussion by peak organisations and government around introducing standard training requirements for case managers and other key personnel in the aged care sector. This is the only means to ensure a national standard for information, reporting and referral networks and ultimately accountability across the sector.

While policies and training are essential, they can only be as effective as is their enforcement. Clearly there needs to be recognition of the pivotal role of case managers in the government's reform process.

Australia has an ageing population. It is a shocking truth that older Australians in NSW and all other states suffer abuse in varying forms.

It is impossible to talk about the role of the NSW state government without also addressing the role of the Commonwealth government and its agencies. This is because of the nature of legislation and funding in the aged services sector. For example, the current Commonwealth aged care reform process impacts on every aspect of aged care in NSW. We are realistic. We understand that reform does not happen quickly – even on an issue as important as the prevention of elder abuse. However, we see a real and vital role for an NSW Aged Care Commissioner:

- In working with stakeholder groups, including unions to implement reforms that are important and possible within the NSW state jurisdiction.
- In advocating at COAG for NSW ageing citizens in what is a joint state/Commonwealth area of responsibility.

Like all stakeholders, the ASU, which represents workers in the aged services sector wants to deliver a quality ageing experience for our ageing population. Toward that end we see an important role for a NSW Aged Care Commissioner including:

1. A review of current legislation in relation to elder abuse in order to ensure national consistency and best practice. That review should include:
  - A consistent and extended definition of elder abuse.
  - A requirement that reporting is mandatory in every jurisdiction and does not exclude cases involving cognitively impaired individuals.
  - A review of reporting procedures.
  - A review of 'whistle blower' legislation in relation to the reporting of elder abuse.
2. A review of minimum staffing ratios in all aged care settings to ensure adequate staffing levels at all times and on all shifts.



3. Quality ageing requires properly resourced services delivered by well trained workers who are employed by properly accredited organisations. In order to ensure best practice standards for delivery of care there should be a review of workforce development issues including:
- The establishment of a public consultation process with all stakeholders towards development of a curriculum for accredited training through TAFE and other accredited providers for workers entering the aged services sector.
  - The establishment of a public consultation process with all stakeholders towards development of a curriculum for accredited comprehensive induction packages developed and delivered through TAFE and other accredited providers.

We consider it to be essential that training is developed in direct consultation with the sector. Who develops and who delivers the training will have a significant impact on its effectiveness.

- A stakeholder consultation process around ongoing professional development. In order to attract and retain the numbers of workers who will be required to work in the sector, workers need the opportunity to develop a secure career in the sector and to regularly update their skills. This is also the best means by which to uphold best practice standards in the interests of those who are ageing, their families, carers and the community.
- Increasingly the social and community services sector has become a mobile workforce. This trend has significantly increased with the advent of the NDIS, Aged Care reforms together with state funding reforms and changes. The sector is marked by a largely female demographic, more likely to retire with no savings, no superannuation and less likely to own their own home. Highly skilled, qualified and experienced professionals leave the sector because of remuneration and security other income issues. The ASU strongly supports a review of the need for a portable long service leave scheme, similar in nature to that currently operating in the ACT and in other industries for workers in the aged care and disability sectors. Apart from issues of equity, this would be a significant means by which to encourage skilled and experienced workers to the sector and for those workers to invest in training and to building a long term career, which is clearly in the best interests of people who are ageing and the community.
- There is a lack of recognition of the violence, trauma and vicarious trauma experienced by workers in the aged care sector. It would be a very proper role for a Commissioner on the Ageing to review these issues as part of workforce review and long-term workforce planning.

### **The role of a Commissioner for Disabilities**

In the Commonwealth Government report: *Shut out: the experience of people living with disability and their families*<sup>3</sup>, the Chair stated in his opening remarks: ‘...for many years people with disabilities found themselves shut in—hidden away in large institutions. Now many people with disabilities find themselves shut out—shut out of buildings, homes, schools, businesses, sports and community groups. They find themselves shut out of our way of life.’

People living with disabilities includes physical, intellectual, psychiatric, psychosocial, developmental, vision, hearing, speech, neurological and acquired brain injury disabilities.

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<sup>3</sup> <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/shut-out-the-experience-of-people-with-disabilities>

The Union sees a very important role for a Disabilities Commissioner in providing strategic advice to a whole-of-government approach to dealing with people living with disabilities, their families, communities and the workforce that supports them.

As an independent advocate for the sector, the Commissioner could collect data, liaise with stakeholder groups and advocate for strategic policy reform. For example, while people living with mental health issues are clearly significant among those living with a disability, they are often excluded from NDIS packages and other services. A current and looming crisis is the end of funding for two key mental health programs: PHaMS, which provides practical assistance for people aged 16 years and over whose lives are severely affected by mental illness. PHaMS helps people overcome social isolation and increase connections with their community, and PIR (Partners in Recovery), which is a community based program supporting people who are re-establishing themselves in the community after acute mental illness. These programs will both cease funding from the federal government on 30 June this year and the thousands of people being supported to remain in the community by these programmes will be entirely without support unless there is funding provided through the state government, or unless the federal government can be convinced to extend the programs. In this instance the role of the Disabilities Commissioner would have been critical in alerting the state government of the looming crisis and advocating for ongoing federal funding or alternate sources of funding in order to avoid extremely vulnerable people being abandoned.

In their report to the federal government, the *Shut Out* report found that a lack of social inclusion and the multiple barriers to meaningful participation in the community faced by people with disabilities were the most frequently raised issues in the submissions and consultations. The Committee Report stated that: *'Virtually every Australian with a disability encounters human rights violations at some point in their lives and very many experience it every day of their lives.'*

Submissions to the same Inquiry provided consistent evidence that Aboriginal and Torres Strait Islanders and people from culturally and linguistically diverse backgrounds with disabilities face a particular battle. They experience the dual disadvantage of prejudice because of their disability and racism because of their heritage. Disability services rarely understand their cultural needs, while mainstream services rarely understand the nature and experience of disability.

Again, the Union believes that the role of a Disabilities Commissioner as an advocate for systemic change and strategic sector reform is clear and should be prioritised.

### **Workforce development issues**

In its signal report on the sector, the Australia Institute's report on workforce issues in the disability sector, *A Portable Training Entitlement System for the Disability Support Services Sector*<sup>4</sup> reports that historically, 'care work' has been devalued. The report goes on to say that any reform to the sector must begin with recognition that these services and supports are essential to a basic standard of living and meaningful participation in community life for people with disabilities and their families, friends and carers. Greater attention to workforce development is essential if the needs of people with disabilities and their families, friends and carers are to be met. Any reforms to the area must focus on the creation and retention of a skilled workforce that is able to provide high-quality support.

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<sup>4</sup> <http://www.tai.org.au/content/portable-training-entitlement-system-disability-support-services-sector>

Supporting these findings, the federal government Inquiry and report *Shut Out* found that while a range of strategies were proposed, most submissions agreed that any reforms must incorporate the following features:

- increased pay rates;
- improved conditions;
- improved education and training;
- development of clear education and career pathways.

Currently, it is estimated that there are around 2,000 disability service providers nationally (NDS, 2016). The sector is growing rapidly, however, and competition for the available workforce is fierce – a situation that is exacerbated by simultaneous growth also occurring in aged care, mental health and community services sectors. Transition to the full National Disability Insurance Scheme is expected to be completed by 2020. The Scheme is phasing in rapidly around Australia and is now fully operational in all regions of NSW. Yet there is currently no clear national strategy to grow the workforce despite the need for an additional 70,000 disability workers by 2020. There are currently virtually no incentives to choose a career in the disability support sector. Indeed, the federal government Productivity Commission reported that the disability sector is experiencing a rise in underemployment and insecure work arrangements, inadequate wages with little or no prospect of professional development opportunities.

The Australia Institute points to evidence from both Australia and internationally, from the disability support sector and from other human service industries, demonstrates conclusively that high quality support services are dependent on high quality employment standards and training for those who provide those services.

Implementation of the NDIS has relied on the sector to recruit, retain and train the growing pool of workers with the required skills to meet the challenges of consumer-directed support. In order to deliver high-quality, individualised services to hundreds of thousands of individual participants, NSW desperately needs a strong and immediate strategy to facilitate ongoing investments in workforce development, training, and job quality.

In our view, a NSW Disabilities Commissioner has a very clear role in developing a workforce strategy that would ensure:

- Wages and working conditions attractive enough to recruit and retain tens of thousands of new workers.
- Good job quality, including employment security, autonomy and recognition.
- The development of a range of appealing career paths in the sector, so that workers can see a positive long-term future working in this field.
- A systematic strategy for training, qualifications and workforce development.

New recruits must be supported to demonstrate their prior skills and learning and attain additional training for which they are recognised and credited. And all disability support workers must have access to ongoing training, to broaden and update their skills throughout their careers, accumulate more credentials, and pursue recognised career paths.

Unfortunately, research regarding the initial experience with the NDIS demonstrates that insufficient attention has been paid to the importance of workforce training and development, as a crucial precondition for high quality service delivery. Specifically, research is revealing that providers experience difficulties in recruiting new staff; that conditions of work have become more difficult; that most workers are engaged in casual, part-time, and irregular positions, and that staff turnover is horrendously high; and that there has been a consequent

reduction in the quantity of training (including in-house supervision and support) provided for employees, just as workers need more skills to fulfil the goals of the NDIS. This situation poses a significant risk for the quality of life and safety of NDIS participants in NSW, for the job quality and opportunity of NSW disability service workers, and for the organisational stability and success of NSW providers.

We therefore strongly support a role for the NSW Disabilities Commissioner in commissioning research and data collection that would both alert the NSW Government to issues, such as the funding crisis currently confronting those living with mental health issues and enable the NSW Government to work in partnership with the federal government towards development of a strategic national workforce strategy in the disability sector, underpinned by a whole-of-government approach to sector support and reform.