

**Submission
No 13**

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

Organisation: National Disability Services

Date Received: 30 May 2019

Submission to the Social Issues Committee:

Ageing and Disability Commissioner Bill

About National Disability Services (NDS)

National Disability Services is the peak body in New South Wales and Australia for non-government disability service providers. NDS has more than 400 members in New South Wales and over 1,000 members nationally.

NDS provides information and networking opportunities to its members and policy advice to state, territory and commonwealth governments. We have a diverse and vibrant membership, comprised of small, medium and larger service providers supporting thousands of people with disability.

Our members collectively provide the full range of disability services, from supported independent living and specialist disability accommodation, respite and therapy to community access and employment. Our members employ over 15,000 people in New South Wales alone and are supported by countless volunteers in delivering vital services to people with disability.

NDS is committed to improving the disability service system to ensure it better supports people with disability and their families and carers, and to building a more inclusive community.

NDS welcomes the opportunity provided by the Social Issues Committee of the NSW Parliament to provide this submission.

NDS also welcomes the decision to create an Aged and Disability Commissioner.

NDS believes the Social Issues Committee may need to consider the following issues:

1) Support for Providers in assisting clients reporting an allegation.

In terms of the role of providers in making complaints or supporting participants to make complaints is worth noting that the report released by the NSW Ombudsman [Abuse and Neglect of Vulnerable Adults in NSW](#) in October last year identified that:

“Disability providers have accounted for almost half (44%) of all matters – in the main, it has been day program/community participation providers (28), in-home support providers (19), and NDIS support coordinators (14) raising concerns about the abuse and neglect of their clients.” (pg. 9).

2) Exchange of information between providers on reasonable grounds. Whilst appropriate consideration of an individual’s privacy is paramount, in a situation where a person with a disability is being supported by more than one service provider the exchange of information about a person at potential risk would be of significant value.

3) Substitute and supported decision making, including where the Commissioner can dispense with seeking consent, ie. where the Commissioner may conduct an investigation into an allegation of abuse, neglect or exploitation without the consent of a person with disability (including incapacity to give consent or the urgency of the circumstances around the allegation);

4) Clarity around the role of the Official Community Visitors and reporting lines. Official Community visitors can report to the A&D Commission, which can refer to the NDIS Commission as a complaint. Whilst the Functions replicate those from the Ombudsman’s Act, they could potentially also refer complaints directly to the NDIS Commission about breaches of the Code of Conduct for disability support workers. (see also point 6 below).

5) The Commission is focused very clearly on adults with disability and older people – so the interface with the child protection and out of home care service systems will be one issue that requires clear guidelines in the new arrangements;

6) The Bill’s Explanatory Note indicates that the provisions proposed relating to the Official Community Visitor program, as it applies to visits to accommodation provided to adults with disability and certain boarding houses – including those funded under the NDIS, are substantially the same as the current provisions of the

Community Services (Complaints, Reviews and Monitoring) Act 1993. These provisions do not cover Adults with disability and older people within the NSW criminal justice, and therefore, leave a significant cohort of the most vulnerable and disadvantaged people with disability beyond the reach of these new protections.

It goes without saying that the implementation detail of the most significant provisions of the Bill will be contained in the accompanying Regulations – so until they are published, we cannot have a view of the full impact of the legalisation.

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