

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

Organisation: Carers NSW

Date Received: 30 May 2019

The Hon Shayne Mallard MLC
Committee Chair
Standing Committee on Social Issues
Parliament of New South Wales
socialissues@parliament.nsw.gov.au

30 May 2019

Dear Mr Mallard,

Carers NSW thanks the Standing Committee on Social Issues for the opportunity to provide a submission in response to the provisions of the *NSW Ageing and Disability Commissioner Bill 2019* (the Bill). We welcome the establishment of an Ageing and Disability Commissioner (the Commissioner) and acknowledge its importance in addressing the existing gap in accountability for individuals responsible for abuse, neglect and exploitation of vulnerable adults within community settings.

Carers NSW has been pleased with the carer-inclusiveness of the consultation process informing the establishment of the Commissioner, and has had the opportunity to contribute to two consultation forums and provide feedback on draft communications resources. Our prior engagement in state and national inquiries and consultations regarding elder abuse and disability safeguards and our recent work with the NSW Department of Family and Community Services (FACS) on carer rights and complaints have also positioned Carers NSW well to contribute.

Due to the short timeframe available to provide a submission, Carers NSW has been unable to seek direct feedback from carers about the specific content of the Bill. Our submission therefore focuses on issues we have previously raised in consultation forums, general considerations regarding carer inclusion and support drawn from our research and consultation with carers, and our high level response to the components of the Bill most pertinent to carers.

Carers NSW notes that while the term 'carer' is used in the Bill's objects and principles, it is not included in the definitions. One of the key concerns we have previously identified in the consultation process relates further to the definition of terms; while the Bill defines 'disability' with reference to the *NSW Disability Inclusion Act 2014*, which includes long-term psychiatric impairments, the use of this definition may unintentionally exclude people living with shorter term or episodic mental illness who do not qualify as having a psychiatric disability. Carers NSW strongly recommends that all people living with mental illness and their carers in the community have access to support and assistance from the Commissioner as they may not be adequately covered by mechanisms aligned to the *NSW Mental Health Act 2007*.

The concerns raised in Parliament regarding the Commissioner's exclusive focus on adults warrant serious consideration. Carers NSW is keen to ensure that vulnerable children and young people who are experiencing abuse have adequate pathways for redress, however we acknowledge that including children and young adults in the Commissioner's remit is not the only possible means of achieving this. Well-established referral pathways in partnership with the NSW Ombudsman, child protection system and other relevant agencies and mechanisms, along with a flexible internal approach to managing complaints regarding children and young people on a case by case basis, may be an alternative. Carers NSW recommends that further consultation be undertaken with key stakeholders,

including carers, with regard to how children and young people can best be supported by the Commissioner, without creating unnecessary duplication or confusion.

Carers NSW also wishes to emphasise the need for a holistic and supportive approach to engaging with carers. In discourse regarding elder abuse and disability safeguards, the terms 'carer' and 'abuser' are sometimes equated, even though in many cases the alleged perpetrator is in fact a family member or friend who is not in a caring role. While carers can indeed be perpetrators of abuse, neglect and exploitation, they can also be victims, and are often reporters. The Commissioner therefore needs to ensure that its language is carer-inclusive to maximise carer engagement.

Furthermore, not all alleged perpetrators have acted deliberately or with awareness of the implications of their actions. Where carer stress, lack of knowledge or lack of formal support are found to have contributed to a situation where abuse, neglect or exploitation is alleged, Carers NSW believes referral to support for the carer should be a priority alongside other responses. Carers NSW has been pleased to see carer support mentioned by a number of Members of Parliament and FACS representatives as a key consideration in establishing the Commissioner and hopes this focus will continue, especially as the Integrated Carer Support Service (ICSS) is established from September 2019. Carers NSW views the ICSS as a key referral pathway that should be embedded into the Commissioner's procedures.

Finally, Carers NSW is pleased that the functions of the Commissioner outlined in the Bill prioritise public education and awareness raising and recommends that this function ensure that the community receives clear and practical information regarding the scope of the Commissioner, its intended 'no wrong door' commitment, alternative pathways for redress, and a comprehensive understanding of what constitutes abuse, neglect and exploitation. Carers NSW strongly believes that preventative education and support directed at carers will reduce the instances of abuse, neglect and exploitation in the community and increase wellbeing and resilience among carers.

Thank you for accepting our submission. For further information regarding the points raised, please contact Sarah Judd-Lam, Manager, Policy and Research on .

Yours sincerely,

Elena Katrakis
CEO
Carers NSW