

Budget Estimates secretariat
Upper House Committees
Parliament of New South Wales
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Dear Parliamentary Committee

Budget Estimates – Ageing and Disability Commission

I refer to the Budget Estimate 2019 questions raised in relation to the Ageing and Disability Commission.

I was appointed as NSW's first Ageing and Disability Commissioner on 1 July 2019 under the (NSW) *Ageing and Disability Commissioner Act 2019* (the Act). The Act also ensures that I am independent and not subject to Ministerial direction and control in exercising my functions.

Please see attached my response to:

- Supplementary questions – Budget Estimates - Minister Ward
- Supplementary questions – Budget Estimates – Minister Sidoti
- Question on Notice – Budget Estimates – Minister Sidoti

If you have any questions please contact Maria Petrou, Executive Officer, on

Warm regards,

Robert Fitzgerald *ÁM*
Ageing and Disability Commissioner

29 September 2019

SUPPLEMENTARY QUESTIONS – BUDGET ESTIMATES MINISTER WARD AND MINISTER SIDOTI

AGEING AND DISABILITY COMMISSION BUDGET AND STAFFING

Question no.	Question on notice
306 Ward 339 Sidoti	What is the total budget for the Ageing and Disability Commissioner?
307 Ward 340 Sidoti	Has there been a reduction in the overall funding for the Commissioner since between the time the position was announced and when the position commenced?

As at 24th September 2019, the Ageing and Disability Commission Budget is set out below:

- 2019/2020 - The total Ageing and Disability Commission budget is yet to be finalised. Currently it is my understanding the:
 - Ageing and Disability Commission Operating Budget is \$3,692,000, which includes funding for the Ageing and Disability Abuse Helpline contract. This amount includes \$550,000 additional allocation approved by Minister Ward in August 2019. It is noted that additionally the Department of Community and Justice is providing and absorbing the cost for corporate services including Human Resources, Finance, Information Digital Technology, Legal support and office premises.
 - Ageing and Disability Commission Capital Budget is \$945,000
 - Official Community Visitors Operating Budget (administered by the ADC) is \$951,000 to be transferred from the NSW Ombudsman.
- 2020/2021 - The total Ageing and Disability Commission budget is yet to be finalised. Currently it is my understanding the:
 - Ageing and Disability Commission Operating Budget is \$4,452,500 which includes the in-house provision of the Ageing and Disability Abuse Helpline. This amount includes \$1,000,000 additional allocation approved by Minister Ward in August 2019. It is noted that additionally the Department of Community and Justice is providing and absorbing the cost for corporate services including Human Resources, Finance, Information Digital Technology, Legal support and office premises.
 - Ageing and Disability Commission Capital Budget is not yet determined.
 - Official Community Visitors Operating Budget (administered by the ADC) is not yet determined.

There has been no reduction since the commencement of the Ageing and Disability Commission on the 1st July 2019. Please refer to above response. NSW Treasury can respond to any budget proposals prior to the commencement of the Ageing and Disability Commission (question 307 & 340).

Question no.	Question on notice
308 Ward 341 Sidoti	How many staff are employed by the Ageing and Disability Commissioner?
357 Sidoti	How many FTE staff are currently employed in the NSW Elder Abuse Helpline and Resource Unit?
358 Sidoti	What is the total staffing budget for the NSW Elder Abuse Helpline and Resource Unit?
359 Sidoti	What is the overall budget for the NSW Elder Abuse Helpline and Resource Unit?

The Ageing and Disability Commission commenced on 1 July 2019 and includes the NSW Ageing and Disability Abuse Helpline (formerly known as the NSW Elder Abuse Helpline and Resource Unit). The Ageing and Disability Commission is in set-up phase, including its staffing structure. In the coming

months, the Ageing and Disability Commission intends to fill/recruit essential non-executive roles to fulfil its legislative responsibilities, including meeting service demand, raising community awareness, and investigating allegations of abuse, neglect and exploitation. Corporate services are provided by staff in the Department of Communities and Justice.

As per public sector requirements, the Ageing and Disability Commission is committed to staff who choose flexible work arrangements, including part-time.

The Ageing and Disability Commission anticipates that it will oversight approximately 63 personnel by the end of 2019, including:

- Commissioner, community support and investigation officers and other staff at Parramatta/ regional sites (approximately 17 staff by the end of 2019, including full-time and part-time)
- Ageing and Disability Abuse Helpline (approximately nine staff, including full-time, part-time and casual)
- Official Community Visitor Scheme (38 Visitors, who are Ministerial appointees).

The current Ageing and Disability Abuse Helpline contract is \$1,165,938. I am advised:

- the 2019/20 budget for direct salary and wages for staff at the Ageing and Disability Abuse Helpline is \$611,817
- in 2018/19, approximately 10 staff were employed at the Elder Abuse Helpline and Resource Unit (NB: 10 staff worked during that year; there was not 10 staff at all times).

ENQUIRIES AND REPORTS TO THE AGEING AND DISABILITY COMMISSION

Question no.	Question on notice
309 Ward 342 Sidoti	How many complaints have been made to the Commissioner since the office opened/ commenced?
310 Ward 343 Sidoti	How many of these cases pertain to: (a) Aged care? (b) Elder abuse? (c) Health facilities for the aged? (d) Housing for the aged? (e) Discrimination against the aged?
354 Sidoti	Since it commenced, how many calls has the NSW Elder Abuse Helpline & Resource Unit received in relation to concerns about Enduring Power of Attorney arrangements?
355 Sidoti	How many of these cases have been investigated?
356 Sidoti	How many of these investigations has led to criminal actions?
360 Sidoti	How many calls has the NSW Elder Abuse Helpline received in each month since it opened?
361 Sidoti	How many of these calls have been investigated?
362 Sidoti	How many of these calls have resulted in criminal actions?
317 Ward 349 Sidoti	Clause 12 of the Clause 13 (10) Ageing and Disability Commissioner Bill 2019 states that the Commissioner must gain the consent of a vulnerable adult to conduct an investigation unless 'the allegation is so serious that it is not necessary to obtain consent'. On how many occasions have cases commenced investigation without consent of a vulnerable person having to be granted?
363 Sidoti	What is the rate of elder abuse identified in each metropolitan, regional and remote area of NSW?
364 Sidoti	What is the rate of elder abuse per socio-economic division within NSW?

The Ageing and Disability Commission includes the NSW Ageing and Disability Abuse Helpline (formerly known as the Elder Abuse Helpline and Resource Unit).

Between 1 July and 24 September 2019 (inclusive), the Ageing and Disability Commission received 953 enquiries and reports, including:

- 393 enquiries and reports in July
- 311 enquiries and reports in August
- 249 enquiries and reports in 1-24 September.

Of the 953 enquiries and reports, 127 have been enquiries – including requests for information about the Ageing and Disability Commission, and matters outside the jurisdiction of the Ageing and Disability Commission (such as interstate matters). The Ageing and Disability Commission has received 826 reports under s13(1) of the *Ageing and Disability Commissioner Act 2019*. The reports relate to adults with disability and older adults who are believed to be subject to, or at risk of abuse, neglect and exploitation; or circumstances that it is believed will result in the abuse, neglect or exploitation of an adult with disability or older adult.

Of the 826 reports, 669 (81%) have related to older adults. 157 reports have related to adults with disability (who are not older adults).

The enquiries and reports are handled by the Helpline and/or the Community Supports and Investigations team in the Ageing and Disability Commission. The Helpline:

- provides information, advice, guidance and support
- links adults and their support network to appropriate services (such as legal services)
- when required, facilitates contact with emergency services to respond to urgent situations
- provides early case coordination to support the adult in relevant cases
- undertakes preliminary assessment of reports.

Of the 826 reports, 169 are being handled by the Ageing and Disability Commission's Community Supports and Investigations team. The Ageing and Disability Commission's actions in relation to these matters include:

- facilitating referrals to appropriate agencies such as the NDIS Quality and Safeguards Commission and the Aged Care Quality and Safety Commission
- conducting further preliminary inquiries in order to determine how best to respond to the report, including whether to commence an investigation
- working with the involved adult and services to improve supports to the adult and their family (where appropriate), and improve the safety and wellbeing of the adult.

As at 24 September 2019, the Ageing and Disability Commission is in the process of seeking the consent of an adult with disability to conduct an investigation. At this stage, no new investigations have commenced. However, there are 15 ongoing Standing Inquiry matters transferred from the NSW Ombudsman have been undertaken.

The Ageing and Disability Commission is currently undertaking substantial work to ensure that its database is able to meet its business needs, and enable regular public reporting on key aspects. Among other things, the database enhancements will enable the Ageing and Disability Commission to capture and report on:

- the type of alleged abuse, neglect and/or exploitation, including the number of matters pertaining to the misuse of Powers of Attorney or Enduring Powers of Attorney
- referral actions and outcomes, including matters involving police
- geographical and demographic data and trends
- the outcomes of the Ageing and Disability Commission's work.

The additions and enhancements to the Ageing and Disability Commission's data system will be completed in 2019.

ELDER ABUSE IN AGED CARE FACILITIES

Question no.	Question on notice
312 Ward 345 Sidoti	Is the Commissioner empowered to investigate claims of elder abuse in aged care facilities in NSW?
313 Ward	Why not?
315 Ward 347 Sidoti	Given what we have learned in recent weeks and months about Bupa and other aged care facilities, isn't there a role for the Commissioner in investigating elder abuse in these settings?

The *Ageing and Disability Commissioner Act 2019* enables the Ageing and Disability Commission to receive and respond to reports about adults with disability and older adults in NSW who are subject to, or at risk of, abuse, neglect or exploitation. The Ageing and Disability Commission can also take reports about circumstances that will result in the abuse, neglect or exploitation of an adult with disability or older adult.

While the legislation provides the Ageing and Disability Commission with a broad scope, it also recognises that other agencies have responsibilities in relation to the abuse, neglect and exploitation of adults with disability and older adults. In this regard, section 13(8)(b) of the *Ageing and Disability Commissioner Act 2019* requires the Ageing and Disability Commission to refer to the Aged Care Commissioner any report (or part thereof) that the Ageing and Disability Commission believe constitutes a complaint that may be made to the Aged Care Quality and Safety Commission.

The Ageing and Disability Commission can take reports about alleged abuse, neglect or exploitation of residents in aged care facilities that do not come under the responsibility of the Aged Care Quality and Safety Commission or the Commonwealth Department of Health, such as alleged abuse of a resident by a family member. The Ageing and Disability Commission will also respond to any matters that relate to the abuse, neglect or exploitation of adults with disability and older adults for which there is not another appropriate body with legislated responsibility.

AGEING AND DISABILITY COMMISSION LEGISLATION AND POWERS

Question no.	Question on notice
314 Ward 346 Sidoti	Is the Commissioner able to hold public inquiries regarding systemic abuse for people with disability and older residents of NSW? (a) Why not?
316 Ward 348 Sidoti	Why did the Government choose to exclude the Ageing and Disability Commissioner from the <i>Government Information (Public Access) Act 2009</i> ?

Section 12(1)(e) of the *Ageing and Disability Commissioner Act 2019* enables the ADC to inquire into and report on systemic issues relating to the protection and promotion of the rights of adults with disability and older adults or the abuse, neglect or exploitation of adults with disability or older adults. The legislation does not prescribe how the inquiries are to be conducted. The Commissioner will determine the appropriate method for conducting the inquiries, taking into account all relevant factors, including the specific issues to be canvassed.

Under section 19(1) of the *Ageing and Disability Commissioner Act 2019*, the Commissioner may conduct a public inquiry for the purposes of an investigation of a report about the alleged abuse, neglect or exploitation of an adult with disability or older adult. In determining whether to hold a public inquiry, the Commissioner needs to be of the opinion that a public inquiry is in the public interest, having regard to:

- the seriousness of the allegation of abuse, neglect or exploitation
- the wishes of any person with disability or older adult to whom the report relates, and
- the privacy of the persons who will be affected by a public inquiry.

The Ageing and Disability Commission is not best placed to answer questions relating to the decisions of the Government prior to the commencement of the ADC. However, the exclusion of information pertaining to the Ageing and Disability Commission's report handling, investigative and reporting functions from the *Government Information (Public Access) Act 2009 (GIPA)* is consistent with other complaint handling and investigative agencies (listed in Schedule 2 of GIPA). The exclusion of the Ageing and Disability Commission's Official Community Visitor scheme functions aligns with the exclusion of the NSW Ombudsman's functions under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, which includes the Official Community Visitor scheme.

OPERATION OF THE ELDER ABUSE HELPLINE AND RESOURCE UNIT (PRE-1 JULY 2019)

Question no.	Question on notice
311 Ward	What is the total number of people who have contacted the Elder Abuse hotline in every year since it began?

The NSW Elder Abuse Helpline and Resource Unit operated between 1 March 2013 and 30 June 2019, contracted to the (then) Department of Family and Community Services. On 1 July 2019, NSW Elder Abuse Helpline and Resource Unit became the NSW Ageing and Disability Abuse Helpline, contracted to the Ageing and Disability Commission.

The below table provides data on the number of calls to the Elder Abuse Helpline and Resource Unit since it began in 2013 to the end of June 2019.

Calls to NSW Elder Abuse Helpline and Resource Unit	1/3/13 – 30/6/14	1/7/14 – 30/6/15	1/7/15 – 30/6/16	1/7/16 – 30/6/17	1/7/17 – 30/6/18	1/7/18 – 30/6/19	
Calls for information/ other	144	303	425	266	21	957	2,116
Calls reporting abuse	1,056	1,268	1,819	1,854	2,950	2,920	11,867
Total	1,200	1,571	2,244	2,120	2,971	3,877	13,983

QUESTION ON NOTICE - MINISTER SIDOTI BUDGET ESTIMATES

QUESTION: Transcript pg 86

The Hon. ROSE JACKSON: How many staff are employed in the Elder Abuse Helpline and Resource Unit?
Mr COUTTS-TROTTER: I would have to take that on notice.
The Hon. ROSE JACKSON: It would be useful to take that on notice. And how many staff were employed in the 2017-18 financial year as well, if you could?
Mr COUTTS-TROTTER: For the elder abuse hotline?
The Hon. ROSE JACKSON: I have it as the Elder Abuse Helpline and Resource Unit.
Mr COUTTS-TROTTER: Sorry. Yes, okay.
The Hon. ROSE JACKSON: Do you have any information about how many calls are received by the helpline?
Mr COUTTS-TROTTER: Yes, we do, I am just having a look. Just to be clear on that, that is the services delivered by a non-government organisation, from memory, but I am happy to see if we can capture employee data.
The Hon. ROSE JACKSON: It is funded by the department, is it?
Mr COUTTS-TROTTER: Yes, it is funded by us. But, just in terms of the employment numbers, it would be through a non-government partner. I am sorry, I do not think I have that to hand. I am happy to get details on the number of calls.
The Hon. ROSE JACKSON: Also investigations as a result of those calls would be useful information.
Mr COUTTS-TROTTER: Yes, sure.

ANSWER:

There is currently approximately nine staff employed in the Ageing and Disability Helpline (previously known as Elder Abuse Helpline and Resource Unit).

In 2018/19, approximately 10 staff were employed at the Elder Abuse Helpline and Resource Unit (NB: 10 staff worked during that year; there was not 10 staff at all times).

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