



30 May 2019

Standing Committee on Social Issues
Parliament of New South Wales

Provisions of the Ageing and Disability Commissioner Bill 2019

Thank you for the opportunity to comment on the inquiry into the provisions of the Ageing and Disability Commissioner Bill 2019. Council on the Ageing (COTA) NSW is the peak body representing people over 50 in NSW.

COTA NSW strongly supports the Ageing and Disability Commissioner Bill 2019 and measures that seek to protect the abuse or neglect of older people and people with disability. The Bill and the appointment of a Commissioner enables critical investigative powers to address the current limitations of legislative frameworks.

However, COTA NSW asserts that the effectiveness of the Bill and the Commissioner can be strengthened by the provision of additional powers and clarification of certain sections of the bill. These suggestions are outlined below:

Functions of the Commissioner

- That all functions of the Commissioner, as expressed in Clause 12 (1) (a) to (g) be truly independent and not subject to the control or direction of the Minister;
- That in retaining this independence the Commissioner has the right to employ their own staff;
- Ensure that the Advisory Board is appointed by the Minister in consultation with the Commissioner;
- Further clarification on what grounds an appointed member of the Board may be removed by the Minister and will there be a maximum number of terms that an appointed board member may sit.

Powers of the Commissioner

- That the Commissioner be compelled to refer matters to the Police and Director of Public Prosecutions if a report or part of a report provides evidence of a criminal offence;
- 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 if systemic issues are identified through the course of the Commissioner's investigations that the Commissioner has the power to hold public inquiries into response to this, with the powers of a Royal Commission.



Clarification

- Clause 13 (10) requires the Commissioner to seek the consent of the adult to whom an allegation has been made. The Commissioner may examine a case if it is deemed 'so serious' as to warrant investigation. This term requires further definition and clarification, as it is currently open to interpretation and possible dispute. Further defining the measures that the Commission will decide whether *the adult is incapable of giving consent* is required, such as a doctor's report or existence of enduring guardianship due to cognitive decline.

COTA NSW believes the scope of the Bill should remain in its current state. We assert that an expansion of the remit to include children and young people will dilute the focus and impact of the Commissioner. Additionally, we feel that there are existing regulations and reporting mechanisms that address abuse and neglect in this cohort.

The establishment of the Commissioner and increased awareness of the issue of the neglect and abuse of older people and people with disability in the community necessitates an examination of the broader availability and resourcing of community advocacy organisations in NSW, particularly those that provide specialised services in these areas. COTA NSW and other non-government organisations often undertake individual referrals or represent their consumers at broader inquiries. The importance of continued funding and resourcing must be recognised and supported.

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