

## Independent Review of the NSW Ageing and Disability Commissioner Act 2019

### Background

Settlement Services International (SSI) welcomes the opportunity to make this submission on the independent review of the Ageing and Disability Commissioner Act 2019. SSI was founded in NSW in 2000 with the aim of helping newly arrived refugees settle in Australia. Over time, our expertise in working with people from diverse cultural and linguistic backgrounds served as the foundation for a gradual expansion into other human services and geographical areas including regional NSW, Queensland and Victoria. Today, the SSI Group supports more than 50,000 clients in almost 40 programs and delivers a range of community-based initiatives across settlement, disability, employment services and complementary social enterprises.

SSI's work in the ageing and disability sector includes delivering services under the National Disability Insurance Scheme in Sydney and South West Sydney; providing Disability Employment Services in NSW and Queensland; and running a business start-up program for people with disability. In addition, SSI was recently selected to deliver a Federal Government program to help upskill and grow the nation's home care workforce. SSI CEO Violet Roumeliotis AM was appointed to the NSW Ageing and Disability Advisory Board in June 2022.

### Consolidated list of questions

**1. Are the objects outlined in section 4 of the Act still valid? What changes, if any, should be made?**

SSI believes that the objectives of the Act are still valid but believes there should be an acknowledgement in subsection 4(2) of the Act that recognises the intersectional complexities for persons who fall into multiple groups (women, ATSI, LGBTQI, CALD etc).

**2. What do you think about the principles? Are they appropriate for older adults and adults with disability?**

SSI believes the principles are sound and appropriate but notes that some adults may have substitute decision makers/guardians in place due to a lack of capacity. There should be reference in the Act as to what is in the best interest of the individual where they do not have the capacity to make decisions.

**3. Are there any changes required to the appointment process or the status of the Commissioner?**

SSI believes that the Act should require the Minister to establish an advisory group, made up of older people, people with disability and others with lived experience, to play a significant role in the identification and appointment of the Commissioner.

**4. Are the functions of the Commissioner suitable and appropriate to achieve the objectives of the Act?**

SSI believes that the Commissioner should do more than monitor, assess and report on the implementation of Australia's Disability Strategy in NSW under paragraph 12(1)(h) of the Act. The Commissioner should also hold powers to hold key stakeholders accountable in some way if they are not meeting obligations or the ethos of the Strategy.

**Should the Commissioner have discretion in deciding which reports to refer to the bodies in sections 13(8) and 13(9) of the Act?** Yes. Discretion would permit the Commissioner to manage issues in totality. This can avoid the issue where a complaint is prohibited under legislation or otherwise from being fully investigated if it is being investigated by another body. Further, it would provide clarification to the complainant around which body is managing their complaint and a clear line of sight.

5. **In what circumstances should the Commissioner be able to investigate an allegation without the consent of the relevant adult?** SSI believes that the Commissioner should be able to investigate an allegation without consent where the adult does not have capacity and there is a reasonable allegation to suggest there may have been abuse, neglect or exploitation
6. **Should an exemption from the requirement to obtain consent, similar to the one in South Australian legislation, be included in the Act?** Yes.
7. **Are the Commissioner's information sharing powers appropriate and sufficient to achieve the objectives of the Act?** Yes.
8. **Should the Act enable the Commissioner to share information with the organisations and individuals listed in paragraph 3.28? Are there any others?** Yes, however, the state of cyber security should also be considered given the ongoing attacks in Australia. If data security of an organisation/Agency has been compromised, then how/if information is shared should be considered carefully.
9. **Are the Commissioner's investigation and public inquiry powers appropriate and sufficient to achieve the objectives of the Act?** Yes.
10. **Should the Act clarify the scope of the Commissioner's authority to manage the performance of OCVs and the grounds of removal for OCVs?** SSI notes that the ADC coordinates the OCV scheme on behalf of both the ADC and the Children's Guardian. SSI believes the Act should clarify the Commissioner's authority to manage the performance of OCVs as OCVs are employed independently and there is a real role for the Commissioner to review OCV performance. While limited oversight on performance and practices can facilitate further independence, it limits how and who responds to performance issues when they arise (i.e. the Commissioner). We note that performance should be managed where it is appropriate before the removal of an OCV if feasible.
11. **Should OCVs be permitted to provide advice and information to the NDIS Commission and Department of Communities and Justice, to improve regulation of the disability services sector and assisted boarding houses?** Yes. SSI believes there is an opportunity under the Act to strengthen the reporting requirements from OCVs on systemic issues arising from visits and other advice and information. This could include the introduction of monthly thematic issues about visitable services on specific topics such as children's care, for example. Further, under section 22, there is no requirement for OCVs to provide data or information on persons using visitable services including whether someone is from a culturally and linguistically diverse (CALD) background. Having to report on a person's cultural background can assist staff from visitable services to improve their cultural awareness and cultural responsiveness to specific clients.
12. **Should disability service providers be required to give information about new or changes to existing visitable services they operate to the ADC? If so, what information should the providers be required to give?** Yes, disability service providers should provide information around the nature and location of the services including numbers of people they support, and levels of support requirements.
13. **Should the ADC Act be amended to provide flexibility for alignment of the NSW OCVs with a nationally consistent CVS which may be subsequently agreed by the Disability Reform Ministers' Council, including the potential for volunteer visitors as per some other state schemes?** Yes.
14. **Are the matters the Commissioner is required to include in their annual reports appropriate?** Yes.

**15. Should the Commissioner be required to continue reporting on the outcome of each referral to other agencies?**

Yes. This type/level of information sharing is critical.

**16. Is the role and membership of the Ageing and Disability Board appropriate and sufficient to achieve the objectives of the Act? Yes.**

**17. Do you have any other comments about the Act that you would like to raise?** As part of its functions under section 12, the ADC operates the Ageing and Disability Abuse helpline and collects demographic data on callers to the Helpline. This data recognises that CALD communities are underrepresented. The ADC has information in community languages on their website and access to the translator interpretation service which is a good step. SSI believes the ADC could more actively engage with ethno-specific aged care providers of aged care (e.g., COASIT, CASS, etc) and/or multicultural disability providers (e.g., Ethnic Child Care Co-operative) to discuss CALD community perceptions and barriers and ways to amplify access to the Helpline. While there is nothing that precludes the Commissioner from doing this under the Act, there are opportunities to mention active engagement with providers.

While section 12 does not preclude this, and the Aged Care Quality and Safety Commission has purview over home care settings, SSI believes that the ADC should also have regard to allegations of abuse, neglect or exploitation of older adults in home care settings as a growing area in aged care services. These include complaints and allegations both raised by home care workers and in relation to home care workers who provide home care services to Australians at home.

Finally, section 12 of the Act provides the Commissioner with the ability to advise and make recommendations to the Minister relating to the abuse, neglect and exploitation of adults with disability and older adults. SSI believes that this provision should be broadened to permit the Commissioner to make recommendations more broadly to promote and protect the rights of adults with disability and older adults generally in line with the objects and principles of the Act set out in section 4. The intersect between aged care, disability and health is complex with both the Commonwealth and states and territories playing a vital role. The Act should permit the Commissioner to advocate to all levels of government on systemic issues that may need addressing including through the Disability Reform Council and Health Ministers Meeting. SSI notes that the Commission needs to be adequately resourced and funded by the NSW Government to effectively meet its critically important and broader remit.

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