

## Response Summary:

The NSW Government asked Mr Alan Cameron AO to independently review the Ageing and Disability Commissioner Act 2019 (the Act). Your comments will be submitted to the Department of Communities and Justice. Your information will be stored electronically, consistent with the department's Records Management Policy and you have the right to request access to, and correction of, your personal information held by the department.

Further information is available on [DCJ Privacy Policy](#).

**Q1. Are the objects outlined in section 4 of the Act still valid? What changes, if any, should be made?**

The objects of the Act are still valid. It is recommended that the age definition for older adults be amended to reduce the age from 65 to 60 years of age.

**Q3. What do you think about the principles? Are they appropriate for older adults and adults with disability?**

The principles in the Act are appropriate for older adults and adults with a disability. It is recommended that the age definition for older adults be amended to reduce the age from 65 to 60 years of age.

**Q4. Are there any changes required to the appointment process or the status of the Commissioner?**

Having a total appointment period of 10 years (5 years initial appointment and then a possible re-appointment for a further 5 years) may be too long. Consideration should be given to limiting the appointment to one 5 year period. This will enable fresh ideas and approaches to addressing the systemic abuse of older adults and adults with disabilities, while still providing a sufficient term to progress the objects and principles of the Act.

**Q5. Are the functions of the Commissioner suitable and appropriate to achieve the objectives of the Act?**

Yes. The functions appear adequate and in line with the Older Persons Protocol on Elder Abuse.

**Q6. Should the Commissioner have discretion in deciding which reports to refer to the bodies in sections 13(8) and 13(9) of the Act?**

Sections 13(8) and 13(9) of the Act are sufficiently broad and provide sufficient protections to older adults and adults with disabilities to enable specialist agencies to also provide assistance. The Commissioner should continue to be required to refer the report to the agencies listed in subsections (8) and (9)

**Q7. In what circumstances should the Commissioner be able to investigate an allegation without the consent of the relevant adult?**

Where the adult cannot be spoken to in a safe and confidential setting in order to obtain their clear informed consent.

**Q8. Should an exemption from the requirement to obtain consent, similar to the one in South Australian legislation, be included in the Act?**

Yes. The inclusion of similar provisions to the ones in the South Australian legislation will provide much needed great protections to older adults and adults with disabilities who cannot speak up because they are being isolated, neglected, exploited or abused.

**Q9. Are the Commissioner's information sharing powers appropriate and sufficient to achieve the objectives of the Act?**

No. There should be greater information sharing powers to enable greater supports for older adults and adults with disabilities.

**Q10. Should the Act enable the Commissioner to share information with the organisations and individuals listed in paragraph 3.28? Are there any others?**

Yes. The proposed list in 3.28 is sufficiently broad to encompass additional organisations that may be able to offer assistance to the vulnerable person.

**Q11. Are the Commissioner's investigation and public inquiry powers appropriate and sufficient to achieve the objectives of the Act?**

In large the Commissioner's investigation and enquiry powers are appropriate and sufficient.

The power to apply for a search warrant is too narrow and should be broadened from the current restrictive grounds of where there is suspicion of "serious abuse and neglect and exploitation". It is proposed that a broader and more appropriate ground would include to allow access when the Commissioner is unable to obtain independent instructions from an older adult or adult with a disability on their own, who is being isolated from attempted contact by the Commissioner.

**Q12. Should the Act clarify the scope of the Commissioner's authority to manage the performance of OCVs and the grounds of removal for OCVs?**

Yes. The Regulations should also provide minimum guidelines for the expectations of OCVs, such as minimum time to be spent on visits and no exclusive list of issues to ensure are not present.

**Q13. 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. While the Commissioner should also receive this information, information should also be shared with other departments to allow the greatest level of support for older adults and adults with disabilities that need assistance

**Q14. 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. NSW should mirror the Queensland provisions.

**Q15. 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 one uniform consistent approach would be beneficial provided that the standards agreed to are taken from the highest standard provided in each State and Territory.

**Q17. Are the matters the Commissioner is required to include in their annual reports appropriate?**

Yes. We have no recommendation for change.

**Q18. Should the Commissioner be required to continue reporting on the outcome of each referral to other agencies?**

Yes. While this may create additional administrative pressures on the ADC, it also provides for transparency in monitoring the reports made concerning actual and possible abuse of older adults and adults with disabilities.

**Q19. Is the role and membership of the Ageing and Disability Board appropriate and sufficient to achieve the objectives of the Act?**

Yes. We have no suggestions for change.

**Q20. Do you have any other comments about the Act that you would like to raise?**

No additional comments.

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**Embedded Data:**

N/A