



Focus Group report on the Independent Review of the Ageing and  
Disability Commissioner Act 2019

**18 November 2022**

Physical Disability Council of NSW  
3/184 Glebe Point Road, Glebe NSW 2037

02 9552 1606  
[www.pdcnsw.org.au](http://www.pdcnsw.org.au)

[serena.ovens@pdcnsw.org.au](mailto:serena.ovens@pdcnsw.org.au)





# Contents

Who is the Physical Disability Council of NSW? .....	4
Introduction.....	5
Responses.....	6
Question 1: What do you think about the rights in the Act? Are they good enough for older adults and adults with a disability? .....	6
Question 2: What do you think about the way the Commissioner is chosen for the job and how long they can be in the job? .....	6
Question 3: Does the Act help the Commissioner to do their job to protect people who have been hurt or abused?.....	7
Question 4: Should the Commissioner choose when to tell other organisations when a person has been hurt or abused?.....	7
Question 5: Should the Commissioner be able to help protect the person even if that person does not want them to? .....	7
Question 6: Do you think that the Commissioner should be able to share information about the person to anyone who will be able to help that person? For example, their doctor or health professional?.....	8
Question 7: Are these powers strong enough to help the Commissioner do their job?.....	8
Question 8: Should OCVs be allowed to share important information with other organisations about supported accommodation or boarding houses so that they can make them a better place to live? .....	8
Question 9: If the Commissioner asked another agency to help the person, then do you think the Commissioner needs to report on what happened to the person? .....	9
General Comments .....	9

## Who is the Physical Disability Council of NSW?

The Physical Disability Council of NSW (PDCN) is the peak body representing people with physical disabilities across New South Wales. This includes people with a range of physical disability issues, from young children and their representatives to aged people, who are from a wide range of socio-economic circumstances and live in metropolitan, rural and regional areas of NSW.

Our core function is to influence and advocate for the achievement of systemic change to ensure the rights of all people with a physical disability are improved and upheld.

The objectives of PDCN are:

- To educate, inform and assist people with physical disabilities in NSW about the range of services, structure and programs available that enable their full participation, equality of opportunity and equality of citizenship.
- To develop the capacity of people with physical disability in NSW to identify their own goals, and the confidence to develop a pathway to achieving their goals (i.e. self-advocate).
- To educate and inform stakeholders (i.e.: about the needs of people with a physical disability) so that they are able to achieve and maintain full participation, equality of opportunity and equality of citizenship.

## Introduction

The Physical Disability Council of NSW undertook two online focus groups on the Ageing and Disability Commissioner Act 2019 review, each lasting 2 hours in duration.

Each group was made up of four people with a disability. (One additional participant did not show to their session.)

In addition, one individual undertook the questions via a one on one phone call in order to meet their accessibility requirements.

Participant demographics were as follows:

- 1. Disability Type:**  
Arthritis (1), Blind (2), Cerebral Palsy (1), Hearing Impairment (2), Lymphodema (1), Multiple Sclerosis (1), Paraplegia (2), Psychosocial (1), Tetraplegia (1)  
(note – some participants identified with more than one disability)
- 2. Gender:**  
Male (4), Female (5)
- 3. Age:**  
35-44 (1), 45-54 (3), 55-64 (3), 65-74 (2)
- 4. Locality:**  
Metropolitan (6), Outer Metro (1), Regional (2)
- 5. Employment Status**  
Full Time (1), Part Time (2) Unemployed (2), Retired (2), Volunteer (1), Unknown (1)

Prior to the sessions the participants were provided with links to the Ageing and Disability Commissioner's Act 2019 and the Ageing and Disability Commission's website.

The facilitators of the focus groups followed the guides and questions provided to them by the Department of Communities and Justice's Summary paper and the report below outlines the participants' responses to the questions and other general feedback provided.

At times, views were diverse and diametrically opposed, though overall all participants saw the Commission as an important piece of infrastructure that needed to establish greater visibility in community, and likely greater funding and capacity to undertake its job effectively

## Responses

### Question 1: What do you think about the rights in the Act? Are they good enough for older adults and adults with a disability?

- The Act is not clear about what constitutes abuse, neglect and exploitation – these should be clearly defined  
I.E: if I can't use a website because I'm blind, and it's inaccessible to me, is this neglect? And is it different (or more substantial) if a government body does this, as opposed to a small individual business?
- Act needs more clarity, plain English definitions and no jargon to ensure all people can understand it.
- On the whole, the principles of the Act seem broad enough to ensure most older peoples/people with disability's rights
- No, they are not good enough – I am still being constantly discriminated against and can't access assistance to allow me to remain independent
- No – too much about us without us
- The Act and rights in the Act are not strong enough to be properly upheld – bit of a toothless tiger
- The Act is absolutely vital for people with disability but needs to be stronger

### Question 2: What do you think about the way the Commissioner is chosen for the job and how long they can be in the job?

#### Job Selection

- Not sure that the current process for choosing the Commissioner is good enough
- Would like the Commissioner to be chosen by a committee that includes laypersons, an employee of the Commission, older person, person with disability, industry representatives
- If possible, the Commissioner should have lived experience
- Would like to see guidance paper on the qualifications the Commissioner must have – not just a legal background, but experience in relevant sectors, and proactive approach
- Commissioner must not be linked with industry of care (conflict of interest)

#### Timeframe

- 5 year maximum term, 10 years too long – fresh eyes needed
- 2 x shorter terms – though not less than 3 years, as it is acknowledged that it can take time to build knowledge, contacts, credibility
- Initial appointment has only been in place for 5 years – may be best to test this over the first 10 years and then re-evaluate
- Ensure external review of Commissioner's performance to check the public they serve is happy eg. Panel of independent bodies such as advocacy groups and representatives

### Question 3: Does the Act help the Commissioner to do their job to protect people who have been hurt or abused?

- Yes, the Act assists the Commissioner to act to assist people, though it was noted that one participant had lodged a complaint with the Commission and had a poor experience
- It was felt that the Commissioner wasn't able to deal with systemic issues - and that this capacity should be strengthened
- Participants noted that it was important that the Commission had the funding and staffing capacity it needs to ensure it can act quickly on any complaint (it was felt that this may not be the case at the moment, and therefore may put the people it is supposed to protect at risk, or in harmful situations for longer than necessary)
- The enforcement that issues/complaints are not allowed to be turned away is encouraging

### Question 4: Should the Commissioner choose when to tell other organisations when a person has been hurt or abused?

- No, (it should not be a choice) the Commissioner should always report to other relevant organisations when abuse occurs, and it is appropriate, especially where this may allow for further investigation
- Guidelines could be provided to clarify when this should occur
- The Commissioner has a duty of care, but he should use this wisely – maybe only in extreme cases
- Yes, immediately report to any other relevant organisations
- The commissioner should act quickly and tell other organisations (such as police) to protect the person involved
- These agencies/organisations should also be expected to report back (to the Commissioner) on what has been undertaken to safeguard the person experiencing abuse/neglect or harm
- Identity, confidentiality and safety of complainant should always be protected

### Question 5: Should the Commissioner be able to help protect the person even if that person does not want them to?

- It is difficult to take liberty away from a person, but important that the Commissioner can act or override to protect the person
- What is the cut-off point? Where do we stop? There needs to be clear guidance on when it is acceptable to do this
- I caution taking away a person's rights – but equally, it is likely that the Commissioner is acting as the person's rights have already been taken away or they are at significant risk
- What does 'serious risk to safety' mean? Should there be illustration in the Act – examples that would clarify.
- This right should not be taken lightly!
- If consent is NOT given, there must be consideration of the person's understanding and their ability to make a decision
- We need to acknowledge the right of individuals to nominate who may speak for them, and how they also may withdraw that consent
- Including CALD community eg. Having independent interpreter available

- The voice and role of carers is missing from the Act – especially when it comes to assisting with consent. This should be rectified or explicitly mentioned
- Someone must be empowered to investigate in the case of serious likelihood of harm

**Question 6: Do you think that the Commissioner should be able to share information about the person to anyone who will be able to help that person? For example, their doctor or health professional?**

- This could be a slippery slope!
- Sometimes people have preconceptions that may put the person at risk (especially around those with mental health or psychosocial issues, or from the LGBTQI or CALD cohorts) – and may be seeing different health professionals for different parts of their care. It would be important not to provide information to the wrong health professional – but how would this be guaranteed?
- Needs tight processes around gaining consent
- Person should have a right to articulate concerns before information is shared
- Consent should be required, unless definitely at risk of imminent and serious risk of harm, or harming others
- What happens once information is shared? If Commissioner shares information, it should be as part of a strategy to a resolution – i.e.: part of an ‘action plan’

**Question 7: Are these powers strong enough to help the Commissioner do their job?**

- The protections and safeguards in place seem to be quite good
- I’m happy as long as these powers are used wisely and the penalties given are strong enough
- Penalties – these are not sufficient for an organisation (should be much higher > \$1M)  
For individuals working as part of an organisation there may need to be jail component for serious abuse, and job loss/disbarment  
For individuals (community, family) penalty (50 penalty units) possibly sufficient, but again subject to legal processes/jail where appropriate to crime committed – ie physical assault
- Act not yet mature enough for me to say whether the powers are strong enough
- What is the enforcement process? Powers may be strong enough, but this is of no use if the enforcement process falls down
- Review is important as is having a public process that reports on outcomes and enforcement processes

**Question 8: Should OCVs be allowed to share important information with other organisations about supported accommodation or boarding houses so that they can make them a better place to live?**

- No – information should be passed back to the Commissioner from the OCVs and the Commission decides what to do or who to share with
- Yes – there should be a way a OCV can quickly escalate issues where laws are broken and there is serious risk of personal harm or imminent danger
- I think OCVs role should be extended to also be able to visit individuals in their homes, especially where there are issues with aged care or disability services



## Question 9: If the Commissioner asked another agency to help the person, then do you think the Commissioner needs to report on what happened to the person?

- Yes, the Commissioner should report both on any agency they have passed the person onto and follow up on the finalisation of any case
- The Commissioner needs to know the final outcome
- There should be a requirement that the other organisation should report back to the Commission in all cases
- There needs to be clear timeframes on reporting back to the Commissioner
- There should also be an overview of systemic trends – how can these be captured

## General Comments

### Reporting

- Important that the community can access reports
- Annual reports seem to provide a lot of detail on 'outputs' (how many people helped) but not outcomes (this feels like a 'tick and flick' exercise)
- There is no clear systemic 'pickups'

### Promotion/Knowledge of the Commission

- What is the capacity of the Commissioner to promote its work and role?
- Seems like it does not have enough visibility in the community, many people do not know it exists or what issues they can take to the Commission
- Must be a 'no wrong door' policy if a person complains to the Commission but it is not the right place to go
- There needs to be clear delineation of the role of the different entities (ADC, Aged Care Q & S etc)
- More promotion of the Commission via numerous channels: TV, Radio, internet, other media (though it was noted that COVID may have played a part in the Commission not being visible to many people)
- Much more is needed in regards to public discussion of elder abuse (public campaign must be undertaken)
- Greater community awareness is needed
- Need a proper launch of Commission/who they are/what they do

### Capacity of the Commission

- Does the Commission have the capacity to meet all the work sent its way?
- Is funding sufficient?

### Act itself

- Needs updating to address references to FACS (now DCJ)
- removal of advocacy review process (this was a one off) – though there may be benefit in further review of the new system (DAFP) at some stage?

### 'Have your say' process

- not considered equitable – CALD able to access interpreters and phone system, but others are not? Why is there not the ability to make a phone submission where people don't have access to internet?
- Guidance document for the review was too simplified
- Consultation period too short (suggest extension to mid December)

- Make documents more easily accessible (website difficult to navigate and find relevant documents)