

To the Commissioner,

I am concerned that there are reports of abuse and neglect of people with disability in services funded under the National Disability Agreement.

I speak as a concerned citizen and the uncle of a nephew who is autistic and has an intellectual disability.

The Productivity Commission exists to "help governments make better policies" for the "welfare of Australians" and the "long term interest of the Australian community".

The Australian Government became a signatory to the United Nations Convention on the Rights of Persons with Disabilities in 2008/9.

The Convention sets out a number of rights of people with disabilities, including a right to safety, wellbeing and justice.

The Council of Australian Governments (COAG) in 2009 created the National Disability Agreement "for the provision of disability services".

COAG's Disability Reform Council oversees implementation of the NDA. Australia's Social Services Minister (Dan Tehan) is Chair of the DRC.

The 2015 Senate inquiry into *Violence, abuse and neglect against people with disability in institutional and residential settings* said "It must be noted that although the NDA states that Commonwealth legislation must be aligned with the Disability Convention, it does not require that state and territory legislation must be as well. Clearly this creates a potential for key parts of domestic law to fail to meet the requirements of the Disability Convention.

"Regardless of this, the Commonwealth still retains the overarching obligation to ensure that all treatment of people with disability in Australia is in keeping with the rights enshrined in the Disability Convention, regardless of whether the Commonwealth has explicitly conferred that obligation in a domestic capacity onto the state and territory governments".

The Senate inquiry said the Australian Government "retains ultimate responsibility to ensure that the treatment of people with disability in Australia is compatible with the provisions of the Disability Convention".

The inquiry stated that the *NDA Specific Purpose Payments, states and territories*, for 2014-19 was \$7.497 billion.

The Australian Government recently released the National Disability Abuse and Neglect Hotline [data](#). It shows there were 472 reported cases of "abuse and neglect of people with disability in Commonwealth, State and Territory funded disability services" between July 2016 and June 2018 - more than one every two days.

I asked the Social Services Minister (Dan Tehan) if the reported cases of abuse and neglect were investigated and, where appropriate, action was taken to ensure people with disability were safe, justice was served and taxpayer dollars were being used appropriately. He did not answer.

Instead, his department sent me the following statement: "The National Disability Abuse and Neglect Hotline is not a complaints resolution service or an individual advocacy service. It works with callers to find appropriate ways of dealing with reports of abuse or neglect through a process of referral, and providing information and support. Callers who report abuse and neglect involving a criminal matter are encouraged to contact the police or are referred to the police directly."

What are we to make of this? That reports may or may not be followed up? That people with disability may not be safe? That justice may not be being served? That billions of taxpayer dollars may not be being used appropriately?

I note the following. The NDIS Quality and Safeguard Commission that is being rolled out across Australia is designed to cover the 460,000 NDIS eligible participants. There are 4.3 million Australians with disability. What about the other 3.84 million?

Regarding the 460,000 eligible participants, it's been noted many times that there was a code of conduct and worker screening at the charity Yooralla but that did not prevent systematic and widespread abuse, torture and neglect of people with disability at that organisation, as parent Sandy Guy recently [told](#) the ABC.

What is the point of having a hotline if the reports are not followed up and followed through? Who is making sure this happens? Who is making sure this money is being used in the best possible way?

Taxpayers expect some certainty around this.

Commissioner, what is being done to ensure that under the terms of the National Disability Agreement people with disability in government-funded services are safe, protected and well looked after?

I would be happy to furnish you with any additional information you may require.

Yours sincerely

Michael Smith

ACT 2606