



Australian Government
Department of Social Services

Michael Lye
Deputy Secretary

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Committee Secretary
Senate Standing Committees on Community Affairs
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Dear Committee Secretary

I am writing to you in relation to the Senate Community Affairs Legislation Committee request, at Additional Estimates 2018-19, for information on the “treatment of people in residential settings” from the 2017 Disability Reform Council (DRC) Annual Report to the Council of Australian Governments (COAG).

At Additional Estimates 2018-19, Senator Carol Brown requested information from the Department of Social Services (the department) concerning what recommendations were made within the DRC Annual Report to COAG in relation to establishing a disability Royal Commission. The department advised the Committee that the report is not publically available and that permission to release this information would be required from the Prime Minister’s department and states and territories.

The department sought agreement from the Department of the Prime Minister and Cabinet (PM&C) and each state and territory on 21 February 2019 to release an extract of the DRC Annual Report to the Committee. As of 20 May 2019, PM&C and all states and territories have responded and agreed to the release of the extract. The extract is provided at **Attachment A**.

Yours sincerely

Michael Lye
29 May 2019

DRC Annual Report 2017 (Pages 20 – 21) extract

Treatment of people in residential settings

At its meeting on 9 June 2017, COAG requested that DRC consider issues regarding the treatment of people with disability in residential settings. DRC shares the concerns of COAG, and those raised by people with disability, their families and carers and the disability sector regarding violence, abuse and neglect in institutional and residential settings.

There have been a number of inquiries into the treatment of people with disability in residential settings

in recent years, including:

- A report by the Victorian Ombudsman.
- An inquiry into abuse in disability services by the Parliament of Victoria.
- A report by the NSW Ombudsman into reviewable deaths.
- Inquiries in South Australia following issues raised in residential settings and a Commonwealth senate inquiry.

These inquiries have provided a number of opportunities for people with disability to provide testimony and led to a number of recommendations, which are being implemented across jurisdictions.

While states and territories remain responsible for quality and safeguarding systems during transition, the recommendations and findings from these enquiries have strongly informed the development of the new Framework (see page 5 of this Report).

The Framework addresses many of the concerns raised by the sector, and will encourage service providers

to take an individualised approach to supporting people with a disability and develop better ways to prevent, detect, and respond to cases of violence, abuse and neglect. The Framework upholds the rights of people with disability and supports choice and control in the NDIS by empowering individuals and driving quality improvement.

The Framework outlines a connected approach to quality and safeguards to empower and support participants to make informed choices about providers, and to equip them to raise issues or make complaints when needed.

This system will provide information about rights and options, build participants' skills and confidence, help them to make connections, and provide decision-making supports to those who need them. Choice and control also mean that participants will have the tools and information they require to make informed judgements about the quality and suitability of providers. DRC remains firmly committed to the establishment of protections for people with a disability, and acknowledges that all governments share responsibility to reduce and eliminate instances of violence whenever and wherever they are identified.

The Framework is designed to balance the need for appropriate protections that meet governments' commitment to providing safeguards with the need to enable participants to take reasonable risks so they can reach their goals. The aim is to establish a flourishing market that offers people with disability genuine choice and control. The Framework is also designed to support the emerging market-based system in which participants are building their capability to act as informed consumers, the workforce is growing rapidly, and new providers are entering the market. The creation of the NDIS will result in a massive expansion of the market for services to the value of \$22 billion per year, creating opportunities for both participants and providers.

Providers will benefit from the establishment of a single national regulatory framework while participants will be provided with information about provider non-compliance with standards and other regulatory requirements.

Once established, the Commission will provide comprehensive regulatory oversight of people with disability in residential setting which are part of the NDIS sector. Through other initiatives of DRC members including the National Disability Abuse and Neglect Hotline, Disability Action Plans developed by individual states and territories, and the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Sector, DRC will continue to monitor and provide oversight of the treatment of people with disability in residential settings, and provide further advice to COAG as issues emerge.

The Commission will be responsible for overseeing quality and safeguards for the full implementation of the NDIS, including Information, Linkages and Capacity building supports for people with disability. This will include people with disability receiving specialist disability accommodation support funded through the NDIS. The Commission will not replace existing functions in the states and territories that have a broader scope (such as an ombudsman, a human rights commission or a public advocate). Services and supports for people with disability that are delivered through other systems, such as the health, education and justice systems, will continue to be covered by the quality and safeguards arrangements of those systems.

Mainstream complaints and redress mechanisms, including police, Fair Trading, and professional and industry bodies, will continue to be available to both NDIS participants and people with disability outside of the NDIS. Consumer guarantees in the Australian Consumer Law will cover disability-related supports and services. Anti-discrimination and human rights legislation overseen by the Disability Discrimination and Human Rights Commissioners will provide additional avenues for raising a complaint.