

Committee Secretary
Senate Standing Committees on Community Affairs
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Parliament House
Canberra ACT 2600

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Re: Inspector-General of Aged Care Bill 2023: A Bill for an Act to provide for the appointment of an Inspector-General of Aged Care, and related purposes

The Australian College of Nursing (ACN) would like to thank the Senate Community Affairs Legislation Committee for the opportunity to provide feedback on the **Inspector-General of Aged Care Bill 2023**.

As the national leader of the nursing profession, ACN supports every measure to provide care for the community at all stages of their life. ACN is committed to protecting all older Australians' health, welfare, and dignity, whether they live in residential aged care facilities or their own homes. As such, ACN welcomes the appointment of an Inspector-General of Aged Care and views this as a path towards ensuring the recommendations of The Royal Commission into Aged Care Quality and Safety¹ are fully implemented promptly.

ACN fully supports the appointment of the Inspector-General of Aged Care. In addition, ACN will welcome the appointment of the Aboriginal and Torres Strait Islander Aged Care Commissioner and any other commissioners appointed to oversee the welfare of elders from other minority groups.

Please refer to the attached submission for further details regarding ACN's feedback on the Bill and other related issues. If you have further enquiries, please do not hesitate to contact

Yours faithfully

Neil Haynes FCA FACN(Hon)
Chief Operating Officer
Australian College of Nursing

31 March 2023

ACN response to the Inspector-General of Aged Care Bill 2023

The Bill adequately covers the scope of the Inspector-General’s role in examining and reporting on the operation of the aged care system.

In relation to Human Rights, as a nursing entity, ACN recognises that the Bill aligns with and promotes the following articles under the International Covenant on Economic, Social and Cultural Rights (ICESCR)² and the Convention on the Rights of Persons with Disabilities (CRPD)³:

- Article 11(1) of the ICESCR and article 28 of the CRPD, the right to an adequate standard of living; and
- Article 12(1) of the ICESCR and articles 23(1)(c) and 25 of the CRPD the right to health.

ACN supports the Bill. However, ACN Fellows and Members identified issues with some sections of the Bill, outlined in the following table:

Subdivision D – Reporting misconduct by Commonwealth officials

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the Inspector-General must report the evidence to:

- (c) if the person is or was the accountable authority of the Commonwealth entity—the responsible Minister for the entity; or
- (d) otherwise—the accountable authority of the Commonwealth entity.

ACN members expressed concern that this could be worded more strongly to ensure the responsible Minister would act upon a report and publicly report the actions taken.

Division 2—Information-gathering powers

44 Power of Inspector-General to obtain information

- (6) A person contravenes this subsection if:
 - (a) the person is given a notice under subsection (2); and
 - (b) the person fails to comply with the notice.

ACN members suggested that there may be circumstances under which a person could not comply – for example, accident, injury, etc. Will there be provisions for people experiencing extenuating circumstances rendering them unable to comply?

ACN supports the inclusion of offences and penalties in the Bill. It is further recommended that the Bill be reviewed regularly to ensure the offences and penalties included remain aligned with aged care legislation.

In the earlier consultation paper, the new role of the Aged Care Complaints Commissioner is mentioned.⁴ ACN members were interested in details of how this role will work with that of the Inspector-General and where the boundaries lie between the complaints received by the Aged Care Complaints Commissioner and actions taken by the Inspector-General, and how these complaints will be addressed and resolved. Importantly, ACN members asked if there is currently an overlap between the Department of Health and Aged Care and the Aged Care Quality and Safety Commission, resulting in a duplication of services. ACN notes that transparency and clear, actionable feedback will be needed in the operational structure to ensure that complaints are adequately resolved, and providers can implement actions.

As mentioned in the letter above, ACN members also noted that there would be an appointment to the Aboriginal and Torres Strait Islander Aged Care Commissioner position. This is wholeheartedly supported by ACN, particularly as Australia is focussing on the upcoming referendum on the Voice to Parliament. ACN encourages the Aboriginal and Torres Strait Islander Aged Care Commissioner to implement the recommendations in Chapter 7 of the Royal Commission's Final Report, ensuring that Aboriginal and Torres Strait Islander people can access 'culturally respectful and safe, high quality, trauma-informed, needs-based, and flexible aged care services'.⁵

ACN would like future discussions regarding the appointment of additional personnel to oversee the welfare and care of those elderly people from other minority groups. This is a critical step in ensuring equitable healthcare access, dignity, and respect are afforded to all people.

¹ Pagone, G., & Briggs, L. (2021). [Royal Commission into Aged Care Quality and Safety Final Report: Care, Dignity and Respect](#). Canberra, Australia: Commonwealth of Australia

² Department of Foreign Affairs. (1976). Australian Treaty Series 1976 No 5. [International Covenant on Economic, Social and Cultural Rights](#). Canberra

³ Department of Foreign Affairs and Trade. (2008). Australian Treaty Series [2008] ATS 12. [Convention on the Rights of Persons with Disabilities](#).

⁴ Department of Health and Aged Care. (2022). [Inspector-General of Aged Care: Consultation Paper on the Exposure Draft of the Inspector-General of Aged Care Bill](#)

⁵ Pagone, G., & Briggs, L. (2021). [Royal Commission into Aged Care Quality and Safety Final Report: Care, Dignity and Respect](#). Canberra, Australia: Commonwealth of Australia