Government of South Australia

Safeguarding Task Force

Report

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1 Background

The Minister for Human Services established the Safeguarding Task Force on 21 May 2020 with responsibility to examine and report quickly on gaps and areas that need strengthening in safeguarding arrangements for people with disabilities living in the State.

> *It is clear we have some gaps in our system for our most vulnerable people with disabilities. The case of Ann Marie Smith has just shocked everyone. There have been many failings and we want to correct them.*
>
> *Minister Michelle Lensink 2020*

The suffering and death of Ann Marie Smith has galvanised the community. The sheer horror of what is alleged to have occurred in the last 12 months of her life and the manner of her death is what nightmares are made of.

For people with disabilities, particularly those who are more vulnerable because of physical limitations or communication difficulties, and because of social factors such as isolation from friends, family, and community, there is an overwhelming fear that what happened to Ann Marie could happen to them.

For parents of children with disabilities, it sets fire to a pervading anxiety about "will my beloved son or daughter be looked after properly when I am gone or can't care for them anymore?"

For service providers, there is sharply heightened awareness that their policies, procedures and training of staff might be inadequate in upholding their clients' rights – for a fate like Ann Marie's to occur for any person with a disability supported by their organisation would be catastrophic.

For Government agencies, consideration must be given to what policy settings and systemic failures allowed Ann Marie Smith to suffer the fate she did.

This report uses the terminology *people with disabilities* to refer to the disability community. We acknowledge and respect that there is a range of views about language and celebrate the right of all people to identify as they see fit.

Presently in South Australia, disability rights are theoretically protected by the *Disability Inclusion Act 2018*, the *Equal Opportunity Act 1984* and, at the Commonwealth level, the *Disability Discrimination Act 1992* and the *Australian Human Rights Commission Act 1986*. Internationally, disability rights are laid out in the United Nations Convention on the Rights of People with Disabilities (UNCRPD).

Despite the existence of these mechanisms to spell out the rights of people with disabilities, the lived experience of many is something entirely different. While this Task Force did not investigate the specific circumstances surrounding Ann Marie Smith's treatment and death, it is important to acknowledge them as an example of the terrible consequences of failing to truly enact the rights of people with disabilities on both the individual and societal level.

We are most concerned about contraventions of the UNCRPD that occur in the following areas:

Article 10 – Right to life

Article 19 – Living independently and being included in the community

Article 20 – Personal mobility

Article 22 – Respect for privacy

Article 25 – Health

Many contraventions of the UNCRPD and other policies can exist in the life of a single person. Many of the abovementioned legislative protections for people with disabilities include exemptions for governments and other bodies and are based on individuals bringing action against an offending party rather than being proactive.

People with disabilities remain undereducated about, and unsupported to pursue, their rights. The lack of state funding of disability advocacy bodies is part of this problem. So, too, is the inaccessibility of society in general. The access and inclusion barriers that exist in systems, including transport, health and education, can inhibit people with disabilities from speaking up and escaping abuse.

The views of support workers and disability service providers are often seen as more important or credible than those of people with disabilities. A pervasive view about people with disabilities sees them as passive recipients of support services for which they should be grateful. People can be labelled as troublemakers if they make complaints about the services they receive. The nature of disability support work sometimes elicits feelings of pity and reverence from the general population, and can be seen as excusing the abuse that sometimes occurs.

It is not enough for service providers to have a "zero tolerance" philosophy on abuse. They must also refer matters of abuse to the police for criminal action. Additionally, they must honestly acknowledge and address their own failings as a service provider.

> *Rather than asking why people do not speak out, we must identify and destroy the barriers that stop them from doing so, and identify, punish, and remove as applicable those who perpetrate abuse or otherwise present a risk to the happiness, safety, dignity, autonomy and ultimately the lives of people with disabilities.*
>
> *Kelly Vincent*

This report is not an exercise in apportioning blame – other investigations will uncover what specifically happened to Ann Marie Smith. There is a South Australian Police (SAPOL) investigation, Coroner's examination, an independent inquiry by Hon. Alan Robertson (a former Federal Court judge) on behalf of the NDIS Quality and Safeguards Commission and a SafeWork SA investigation. The purpose of this Task Force is to quickly identify gaps in services and systemic failures that let this tragic event occur. If those gaps and failures are not rectified, similar tragedies could occur again.

Members of the Task Force want to emphasise that the ways in which a person with a disability connects to others and is able to direct and control what happens in their own life will help to proactively avoid abuse and neglect.

By creating a good life you are preventing abuse.

Prof Sally Robinson

The Interim Report concentrated on:

- *preventative* measures, whereby government agencies and service providers have policies, staff training and safeguards in place to minimise the risk of abuse or neglect while, at the same time, not derogating from the freedom and agency of the participant, and
- *corrective* measures – how the system responds when things go wrong. How are policies, procedures and training modified to mitigate the risk of reoccurrence of adverse events?

This updated report has more to say on all these matters, as the Task Force considered evidence and options and listened to the views expressed by many individuals and groups who wished to have input.

This Report of the Safeguarding Task Force also deals with *developmental* measures – how people with disabilities are empowered through education, experience and opportunity so that they can have a life of their own choosing, a life they control, a life of which they are the author – and how government policy can foster that development.

Is it possible to design a framework whose primary aim is to promote people's wellbeing and safety and maximise their opportunity to have a good life? Is it possible to capture the learning to date from people, families and workers and give some indication of what helps to keep all citizens safe, including a mixture of local informal supports such as family, friends, neighbours, community connections and formal statutory supports such as regulation, police checks and registers? What other processes are in place in today's society that promote wellbeing, balancing informal and formal supports? Is it possible to develop a framework that benefits all citizens not just those identified as vulnerable? What should be the potential national role of mechanisms that exist in some jurisdictions but not others e.g. care concerns units and community visitor programs under an NDIS?

Walker, Fulton and Bonyhady 2013

2 Methodology

The membership of the Safeguarding Task Force is listed in Section 9.2 The membership comprised people with a lived experience of disability, family members, service providers and State Government officials. This allowed multiple perspectives to be tapped. The Terms of Reference for the Task Force are given in Section 9.3 The Task Force met formally on three occasions (27 May, 10 June and 15 July 2020) prior to submitting this Report on 31 July 2020. In addition, a 4-hour think-tank was held, involving the co-chairs and the members of the Task Force with a lived experience of disability. Some Task Force members have made written submissions which are available via the link in Section 9.4.

Importantly, the co-chairs met with a wide variety of people who wanted to talk to them about safeguarding issues. Meeting notes were taken for each meeting, the notes were checked with the person (or persons) interviewed and permission obtained to include them in the attachments to this Report. That way the Report is a repository of material that can be accessed for future policy development.

The Interim Report was delivered to the Minister on 15 June and was publicly released by her on 16 June. The Interim Report was widely circulated and an Easy Read version was created and disseminated on 10 July 2020. It was made clear that feedback would be welcome and approximately 70 contributions were made in writing and the co-chairs met with 85 people (see list in Section 9.5).

This Report identifies 14 gaps in safeguarding (12 of which were identified at least in preliminary form in the Interim Report) and makes 7 recommendations to address those gaps. We have taken into account what people have told us through written submission and interview. We did not have public hearings or seek formal submissions – that is a task left to others, especially the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission) which has signaled its intent to take up this matter at a later time. A version of this Report will also be prepared in Easy English.

This Report looks at systemic issues that create gaps in safeguarding arising from the operation of the National Disability Insurance Agency (NDIA), the NDIS Quality and Safeguards Commission (the Commission) and State Government agencies.

We decided that this Report would subsume the Interim Report, i.e. it can be read on its own and the material in the Interim Report is all included in this Report, but adjusted according to feedback received.

3 The National Disability Insurance Agency (NDIA)

While there have been many issues identified in the performance of the NDIA, ranging from timeliness and responsiveness of the agency through to their way of doing business, this report concentrates on matters that bear directly on safeguarding.

It is clear that the NDIS is a most welcome innovation in Australia – a universal, national, insurance-based view of disability that enshrines respect for the individual participant and their ability to exercise choice over such matters as "who provides services" and to exercise control over precisely how those services are delivered. These are intrinsic rights founded on the United Nations Convention on the Rights of Persons with Disability (2006), of which Australia is a signatory, and people with disabilities rightly demand that they are not lost. A drive to "safeguarding at all costs" could lead to loss of autonomy, denial of the ordinary risk-taking that all citizens enjoy and even a return to institutionalisation (even if that is virtual through such things as electronic monitoring).

> *We need to be careful that people don't lose trust in the NDIS and the good things that it has done and also that we don't portray every person with a disability as needy and vulnerable.*
>
> *Jacky Chant*

For the majority of NDIS participants the current model of service delivery works well, at least it will work well when all the administrative and organisational problems of the NDIA are worked out. For a smaller group of participants the NDIA approach is inherently risky because a lack of support around their learning, physical, and communication needs can make them more vulnerable to neglect and abuse, including coercion.

> *The prevention of abuse, neglect and exploitation starts with the NDIS Plan*
>
> *Anne Gale, Public Advocate*

The NDIA has not had a clear, transparent concept of "vulnerability". However, during the COVID 19 pandemic the NDIA identified over 5,000 NDIS participants, in SA who are "vulnerable" and these people have had welfare checks conducted by the NDIA.

The cohort for the COVID 19 vulnerability strategy included participants:

- receiving certain levels of core daily activities supports;
- already in the NDIA's Complex Support Needs Pathway;
- receiving disability related health supports, including community nursing, assistive technology for personal care/safety, diet management;
- receiving behavioural supports;

- aged over 55 years and with aged carers;
- in indigenous communities; and
- living in Supported Independent Living (SIL), Specialist Disability Accommodation (SDA), Younger People in Residential Aged Care (YPIRAC) or specific housing segments such as boarding houses or hostels.

This welfare checking initiative conducted under COVID 19 needs to be built on when considering criteria of "vulnerability" and measures to address the associated risks. It is salutary to note that Ann Marie met none of these criteria for vulnerability so would not have had a welfare check. "Living alone" is a criterion that needs to be added.

The NDIA has avoided the concept of "case management", due to concerns that it leads to disempowerment and condescension. Instead, it has created numerous players with different roles that make perfect sense to the framers in the NDIA but make precious little sense to many participants or their families. So, the NDIA has the following cast of players:

- The Local Area Coordinator (who works with the participant to get their plan together and assists in navigating access to the wider community) - the role of supporting people to access the wider community and mainstream services has been impacted by the rate of the roll out of the NDIS, placing a focus on getting people on to the scheme rather than connecting them with their community,
- The NDIA Planner who signs off on the participant's plan and may not have sufficient information about the participant to make an assessment of risks and vulnerabilities – for participants in the Complex Support Needs Pathway the NDIA Planner is the closest role to that of the traditional case manager,
- The Plan Manager who pays the participant's bills from service providers, if the participant so-chooses who may not have met the participant or be involved in aspects of their life, and
- The Support Coordinator who will only be included in the plan if the participant meets strict complexity guidelines and is usually only funded temporarily while the participant needs help to engage service providers. There is frequently no opportunity for a long-term relationship to develop a rapport, as funding may not continue year to year. Support is time-limited and considered capacity building and inappropriate for ongoing lifelong support. Less than 40% of NDIS plans include funding for support coordination and this is flagged by the NDIS as expecting to drop as time goes on.

As well as this cast of players there is an array of functions they perform - from local area coordination, support connection, support coordination, specialist support coordination, plan management and planning. If that sounds confusing and unnecessarily complex it is because it is. Many a participant or their nominee (usually a family member) is totally overwhelmed by this abundance of players and functions and they end up doing all the advocacy, lobbying, chasing-up and coordination themselves (i.e. case management hasn't been done away with – it has lobbed back with the participant and/or their families, to their detriment).

Potentially vulnerable individuals are those with complex support needs (including communication difficulties), cognitive challenges, poverty, domestic violence or lack

of connection to family/friends/services. For individuals with any number of these vulnerabilities, putting together their services can be overwhelming and they may not know who to go to for help.

Task Force members were at pains to emphasise that just because you have a disability that does not mean that you are therefore vulnerable. Some people may be vulnerable due to not being aware of what they need and what support is available to them.

Having a process to identify potentially vulnerable participants is key and having a single locus of responsibility *vis-a-vis* the participant is essential for good practice. The concept of vulnerability needs to be assessed on a case-by-case basis and is not static. That is to say a person may be independent and or well connected for the majority of their life, but if these circumstances change, they may find themselves more vulnerable. Conversely, people can become less vulnerable over time. This assessment must occur in person so that nuances can be identified. It is critical that the participants or their families know where to go to for help, with a single point of contact who is responsible for looking out for the vulnerable participants and ensuring their needed supports. The best entity in the NDIS system to perform such functions is probably "support coordination", but it needs to be ongoing and it needs to be timely and responsive to need.

> *There are people who require case management FULL STOP! and there is no place for that in the scheme as it stands today*
>
> *Sam Paior*

Support Coordination also needs to be automatically inserted into the plan of any potentially vulnerable participant. The participant must be supported by the Local Area Coordinator (LAC) or NDIA to find and engage that service as a starting point. In addition, the support coordinator needs to ensure that all aspects of the participant's plan that are listed are implemented. The support coordinator provides an essential second pair of eyes to ensure good things are, and bad things are not happening in a participant's life.

> *Case Management is so missing and most of those people are not aware that they can get support coordination in their package.*
>
> *Karen Rogers*

Any support coordinator that is employed by an agency that also provides other services for that participant is not an independent pair of eyes. Therefore there is conflict of interest. This was identified in the 2019 review of the *National Disability Insurance Scheme Act 2013* – Removing Red Tape and Implementing the NDIS Participant Service Guarantee, David Tune OA PSM.

"*The NDIS Rules are amended to:*

a) set out the factors the NDIA will consider in funding support coordination in an NDIS participant's plan

b) outline circumstances in which it is not appropriate for the provider of support coordination to be the provider of any other funded supports in a participant's plan, to protect providers from a conflict of interest."

Tune Recommendation 16

> *Support Coordination and Core Supports must be separated, they must almost never be provided by the same provider. I am not saying that they should not do support coordination but they should not do it for the same client with few exceptions.*
>
> *Sam Paior*

This issue of the separation of the role of support coordination from other service provision is a fraught one and we have been challenged on this matter. There is no point casting the role of honest broker on to the support coordinator if they do not know the participant well, if they see their role as mechanistically providing service provider options, or if they have little knowledge of disability matters as they affect the lives of a potentially vulnerable participant.

> *Often the best support coordinators come from the service provider agency because they understand the disability and they know the participant.*
>
> *Peter Hoppo, NDS*

To not separate the roles invites conflicts of interest and in the wrong hands participant capture. To separate the roles, requires that support coordinators can perform some, at least, of the functions of a quality case manager and that they know the participant well.

Looking at the NDIS from the perspective of the participant, they not only look for administrative efficiency (i.e. returned phone calls, answered emails) but also who to go to for help. There is too much navigation through a complex web expected of the individual participant. To get this right is not disempowering the participant – quite the reverse – it gives them the information and contact to exercise choice and control and take possession of their own lives.

The NDIA is the agency with oversight of funding and system design. It is the agency that partners with LAC, which helps participants to better connect with their community. The NDIA has redirected LAC to expedite the transition of people into the Scheme to meet their key performance indicators. It also funds support coordination which connects an individual to the services they need. The NDIA needs to define the alerts for when a vulnerable participant is in difficulty. Comments have been made about the perceived lack of understanding of disability within LAC and further disability awareness training delivered by people with disabilities is required.

The NDIS, built on choice and control and insurance principles, has not seen itself as the case manager ultimately responsible for safeguarding vulnerable participants. This has to change and COVID 19 has started this process.

Safeguarding Gap 1

Potentially vulnerable participants are not routinely identified and assigned ongoing support coordination in their NDIS plan.

Safeguarding Gap 2

The support coordinator can be from the same agency that provides other core services for the individual, creating a conflict of interest.

Support coordinators need good familiarity with participants, their wishes and their disabilities and they need to be available when the participant is in strife. If, pragmatically, the best support coordination is available from the service provider agency then, as the Tune Review recommends, there needs to be explicit mechanisms to handle the conflict of interest.

Safeguarding Gap 3

Participants are not routinely linked to community activities so they are often isolated.

Assisting with access to the community has been the designated role of Local Area Coordination, but it has taken a lower priority than plan development during transition from state schemes to the NDIS.

Safeguarding Gap 4

Participants are not identified as potentially vulnerable by the NDIA and prioritised by LAC when carrying out the community connection role.

Safeguarding Gap 5

NDIS plans do not routinely include strategies to minimise participant risk e.g. coordination of health care (including dental, sexual and mental health), technology to aid independence and safety, capacity building for asserting rights, and recognition of cultural matters.

Plans need to be developed with participants being involved (with support if needed) and plans need to be fully implemented and the funding fully expended. The utilisation of plans need to be monitored closely by the NDIA.

4 NDIS Quality and Safeguards Commission

The Commission is responsible for registering service providers, handling complaints, recording adverse incidents and monitoring the use of restrictive practices.

For a provider to be registered with the NDIA they have to go through a lengthy and somewhat costly process. This may not be viable for some smaller businesses or sole operators. It does not mean however that these unregistered providers do not have all the necessary skills to provide a quality service.

Unregistered providers do not have to adhere to the quality and safeguards requirements of the Commission, including worker screening and audits, although they are expected to adhere to the code of conduct. It is up to the participant to determine whether an unregistered provider offers a safe and quality service. Only self-managed and plan-managed participants are able to use unregistered providers. Participants who are Agency managed can only utilise registered providers.

The Commission needs to be a responsive and welcoming place for anyone to go to if they have concerns about the circumstances of an NDIS participant. Just as a participant, their nominee or their guardian needs a clear place to go to, so too do members of the public, relatives or any interested person. The Commission needs to have a mechanism to welcome and respond to notifications of adverse events that affect the welfare of participants.

> *The Commission only want to hear about providers not family members.*
>
> *Sam Paior*

> *What does get reported to the NDIS Commission is outrageous instances of neglect and abuse, what does not get reported is people sitting around all day in day options with nothing to do.*
>
> *Richard Bruggemann*

> *We don't want to throw choice and control and dignity out in the name of safeguarding.*
>
> *Sam Paior*

Participants can self-manage (i.e. take the funding in their NDIS plan and organise their services themselves or through a nominee) or plan-manage (i.e. use a registered Plan Management agency to pay bills etc.). Then the risk when adverse events occur is treated as residing with the participant. Participants need to be aware of this risk. Reports of matters of concern by members of the general public are treated as complaints and the Commission looks to the participant or their nominee to make the complaint. If the participant is a vulnerable person then they are not likely to formalise a complaint and therefore the matter goes unreported. When a neighbour or family member is concerned about the welfare of a person with a disability they need to know where that can be reported without having to immerse

themselves in bureaucracy. There also needs to be a clear process around what actions will be taken once a complaint is lodged, and how people can follow up their complaint. Additionally, the Commission does not routinely share information with the NDIA when participants may be at risk because a service provider is under investigation. This would allow the NDIA to contact and support affected participants.

The Commission does not deal with matters raised by individuals, except insofar as they reflect on the performance of a service provider. The Commission needs a clear, accessible process for anyone to register a matter of concern. The general public would look to a Commonwealth agency called "Quality and Safeguards Commission" as the natural place to approach with a concern about the health or welfare of a participant in the Scheme. However, the general population is unlikely to know of the existence of the Commission or how to approach it. The title "Quality and Safeguards Commission" may not be easily associated with where the general population would report abuse or neglect. For people with a cognitive impairment, understanding who and where to report matters is problematic. The Commission needs to reach out to these potentially vulnerable participants and not assume that the participant will know how to find the Commission when needed.

Safeguarding Gap 6

Participants and their families are unclear about how to raise matters of concern with the Commission and the Commission does not routinely undertake proactive inspections to vet the performance of service providers.

Safeguarding Gap 7

The NDIS Quality and Safeguards Commission does not adequately consider the risk factors associated with the use of unregistered providers of personal support, particularly for potentially vulnerable participants.

Safeguarding Gap 8

The Commission does not explicitly require of all providers of personal support that there be at least two support workers for that individual (not necessarily at the same time) and that workers in participants' homes have regular supervision.

5 State Government

The State Government has transferred responsibility for the funding and regulation of disability services to the Commonwealth and the NDIS. It is, however, responsible for those specific tasks left to it under the Bilateral Agreement between the Commonwealth and South Australia 2018 such as the screening of workers, the authorisation of restrictive practices and Community Visitor Scheme (CVS) arrangements. Full transition has now occurred, although the State is still a limited service provider under the NDIS, especially in group home accommodation and there are many people with psychosocial disability yet to enter the NDIS in SA. A

number of NDIS participants have expressed to us the view that they have been abandoned by the State government in the transfer to the NDIS. NDIS participants in SA are still residents and citizens and can reasonably expect support from mainstream agencies. The *Disability Inclusion Act 2018* addressed this issue.

Since 1 July 2018 quality and safeguarding has been the responsibility of the Commission with the exception of the Department of Human Services (DHS) accommodation services which are in-kind and are not covered by the Commission. However, DHS accommodation services have a number of state-based safeguarding mechanisms including the DHS Incident Management Unit, the DHS Integrated Incident Management reporting system and DHS Internal Audit.

5.1 Health Checks

Having timely access to health care is crucial to preventing, treating and managing health conditions. There is much evidence that people with disabilities do not get a good deal from the health system, notwithstanding some excellent initiatives like the Centre for Disability Health. There is also considerable evidence that people with disabilities have a reduced life expectancy due to poor health monitoring and screening. Vulnerable individuals need to have regular health review. Currently all people who have an intellectual disability are eligible for a prolonged health assessment under the Commonwealth Department of Health, Medicare Benefits Schedule (MBS)-Item 707. Undertaking an annual health review with a general practitioner who is trusted and known to the person will lead to the best possible outcomes. Using the MBS prolonged health assessment will provide sufficient time (60 minutes) to collect a comprehensive patient history and undertake a thorough examination of the person's medical condition and physical, psychological and social function. Providing a comprehensive health care management plan including necessary interventions and referrals (e.g. visiting nursing services) will lead to positive outcomes. The annual health check will also include regular checks for people depending on their vulnerability and health needs.

The MedsCheck service involves the provision of an in-pharmacy one-to-one discussion between a pharmacist and a patient to improve the quality use of medicines. This service is funded via the Community Pharmacy Agreement and does not require a doctor's referral. The Homes Medication Review is intended to maximise an individual patient's benefit from their medication regime, and prevent medication related problems through a team approach, involving a referral from the person's General Practitioner to an accredited pharmacist. The Home Medication Review is supported through the Medicare Benefits Schedule item 900.

Accessing health care is the responsibility of the individual with support as required but where a vulnerable person does not wish to take up the offer of a check that should be a further alert to vulnerability and followed up with the individual by the support coordinator.

Many people with a disability do not get supported to go to medical appointments in the first place, and, if they do, they are treated for their behaviour, not the underlying cause.

Where a person is vulnerable because of health issues, their NDIS plan should include coordination (not provision) of their health care. There is a need for our

health system, both medical services, funded by the Commonwealth and hospital services, provided by the state government, to improve their access for people with disabilities. This has recently been the focus of work undertaken by the Department of Health and Wellbeing and the Health Performance Council.

At present, the lack of coordinated health supports means that some health interventions for people with disabilities occur as crises undertaken by the South Australian Ambulance Service. Its CEO, David Place, is reported to have said (Advertiser 3rd June 2020) that "one-third of calls involved chronic complex cases responsible for two-thirds of ramping time." This is not only a highly inefficient way to provide health care; it is demeaning and life-threatening for the individual. A highly qualified retired health professional reports that, in the absence of coordinated health care, her niece has to regularly attend hospital by ambulance to receive even basic health services.

Safeguarding Gap 9

Regular health checks are not routinely made available to all vulnerable NDIS participants and their NDIS plan does not routinely include coordination of their health care.

5.2 Adult Safeguarding

The Adult Safeguarding Unit (ASU), located in the Office for Ageing Well (OFAW), has a strong focus on safeguarding the rights of adults at risk of abuse. This is established under the *Ageing and Adult Safeguarding Act 1995* and, for the first three years of operation, has a remit of adults aged 65 years and over, and 50 years and over for Aboriginal and Torres Strait Islander people.

The key functions include:

- responding to reports of suspected or actual abuse of adults who may be vulnerable
- providing support to safeguard the rights of adults experiencing abuse, tailored to their needs, wishes and circumstances
- raising community awareness of strategies to safeguard the rights of adults who may be at risk of abuse.

Whilst reporting to the ASU is voluntary, once a report of actual or suspected abuse is received, the ASU has a statutory responsibility to respond. The ASU has a range of information gathering powers to enable them to investigate reports of serious abuse effectively. However, in most cases the consent of the adult at risk is sought before any safeguarding action is taken. The role of the ASU is not as a regulatory agency nor to punish perpetrators, but to work positively with and for the adult at risk of abuse to facilitate safeguarding support, whilst preserving the relationships that are important to them. The remit of the ASU is slated to extend to all vulnerable adults in 2022. However, in view of current concerns about the potential vulnerability of many younger adults, particularly those with disabilities, consideration needs to be given to how this can be brought forward to ensure that those who are at risk of abuse can access appropriate safeguarding support.

The *National Disability Abuse and Neglect Hotline* already exists but is not well known. This is a service that will take a report of abuse or neglect and triage to the relevant Commonwealth or State agencies for investigation and follow-up.

In expanding the remit of the ASU to include younger adults at risk of abuse, appropriate relationships must be established with relevant other agencies, including the National Disability Abuse and Neglect Hotline and the Commission. This will ensure that appropriate information sharing and multi-agency collaboration can occur to enable effective response pathways and safeguarding support to be put in place, in line with the person's wishes and circumstances.

Safeguarding Gap 10

There is currently no State agency to report abuse and neglect of vulnerable adults under 65 years of age.

For its first three years of operation, the Adult Safeguarding Unit only has the legal remit to respond to reports of abuse and neglect of vulnerable adults aged over 65. Extending the reporting of abuse and neglect to vulnerable adults under 65 will require an extensive promotional campaign including the elements of prevention e.g. 'it's alright to knock and ask if I am ok".

5.3 Screening

All registered providers of disability services under the NDIS are required to ensure all staff working with people with disabilities are appropriately screened. Failure to abide by this renders a service provider in breach of their registration requirements. However, where a participant chooses to self-manage or plan-manage, they can use non-registered providers and there is no obligation for these providers to have screening checks on their workers. This is clearly a situation where the NDIS considers the individual is making their choices and taking personal responsibility if things go wrong.

Under the Bilateral Agreement between the Commonwealth and South Australia 2018, the State is responsible for screening of people working with vulnerable people – the screening uses information available from police records, court appearances and personnel records of agencies, but so long as a person can pass these requirement they are cleared to work in the industry, but that does not *guarantee* that they are safe to be allowed to work with vulnerable people. It merely screens out people whose track record makes them un-safe for working with vulnerable people. The Department of Child Protection uses enhanced screening of workers in residential care, involving psychological testing. This is a matter that warrants further consideration, but enhanced screening is one mechanism among a number e.g. rigour in staff selection, training and supervision.

The screening system is only as good as the information supplied and acted on. There is a particular problem when it comes to Commonwealth agencies e.g. the Commission, sharing information with the State so that the screening unit can be appraised of all relevant information when making a screening determination. It also appears, in a number of instances, that the Commission has not readily shared critical information with the NDIA.

The availability of critical information from State authorities e.g. SAPOL also requires review. Clearly, when SAPOL is investigating a criminal matter, and before charges are laid, it may not be in a position to divulge that information to others e.g. the DHS Screening Unit. Clearly a service provider or care worker who is under investigation by SAPOL may pose a risk to NDIS participants but that risk is not known to the Screening Unit.

Safeguarding Gap 11

The DHS Screening Unit is not quickly and fully provided with relevant information by the Commission, the NDIA and some State agencies, compromising the availability of information on an individual worker that might affect their suitability to work with people with disabilities.

5.4 Community Visitor Scheme

The *National Disability Insurance Scheme Act 2013* gives compliance and enforcement powers for disability services to the Commission, including strong monitoring and investigative functions. The Commission can, and does, when alerted through a relevant notification, make unannounced and short-notice visits to disability services to inspect and assess quality and safety issues and respond to complaints or information of concern. In addition, NDIS providers may contract an independent auditor (registered with the Commission for that purpose) to conduct an independent visit and audit of their premises. Also, initiatives like Quality Checkers provide a system of internal audit of services at the request of service providers.

The State no longer has a funding relationship with non-government agencies and the State needs to work within its responsibilities rather than venture into the domain of the Commonwealth. The future role of the CVS has to accommodate the roles and functions of the NDIA and of the Commission under the Commonwealth's NDIS Act 2013.

Under current arrangements, the South Australian CVS has the power to visit DHS-run accommodation services. It also has the ability to visit people who are NDIS participants and under the guardianship of the Public Advocate. As constructed under Regulations under the *Disability Services Act 1993*, the disability CVS did not have statutory power to enter the private home of a person with a disability. Coercive powers to enter private homes is also a significant human rights issue. If such powers for a visitation scheme was to be seriously considered, people with disabilities should be first consulted.

> *Once you have the power to go into people's homes you don't know where that could go*
>
> *Trevor Harrison*

> *The State and territory framework of CVS should be retained as a contributory function to the NDIS Framework. They should play an independent role whilst contributing to the intelligence available to the NDIS Commission. It is important the CVS is formally recognised within the NDIS Framework so that the safety net for vulnerable people is not lost (especially in the context of the risks of transition in the next two to five years.) This interface could be*

> *effected through structured communications to and from, agreed reports that can be consolidated nationally, consistent definitions, possibly opportunities for the NDIS Commission to request CVS look at an issue of concern. The risks of this approach rather than a national scheme are that there could be variable commitment and inconsistencies which could impact on NDIS participants and providers. The recommendations that CVS collaborate to achieve greater consistency and alignment of approaches address this risk in part.*
>
> *West Wood Spice 2018*

There is general acceptance that the CVS has great merit in that it provides more eyes to observe what is happening in a potentially vulnerable person's life. The disability CVS has been in existence since 2013 and uses screened and trained volunteers to undertake the visits.

The State Opposition's bill for the CVS has been referred to the Task Force for consideration. A revised scheme needs to consider legal responsibilities between the State and Commonwealth as well as the scope and capacity of the scheme. The South Australian Government has received advice from the Crown Solicitor on this issue. Having considered this advice, the state's view is that the NDIS Act has "covered the field" in the area of quality and safeguards and that constitutional issues would arise if the state were to legislate to provide those powers to a CVS in relation to NDIS funded services. The view is further held that coercive powers to compel the production of information, or require corrective measures by a service provider, could ultimately become invalid.

The Task Force has undertaken an analysis of CVS (or related) arrangements in each of the 6 jurisdictions that operate a CVS (see Section 9.9.

The common view of people consulted is that the CVS is a valuable part of the safeguarding environment.

There is merit in having a community visitor scheme that empowers visitors to visit potentially vulnerable people in all group homes, all supported residential facilities and all day options programs, whether state-run or NGO-run. There is also value in a visitor going into a person's own home by invitation.

The cleanest and best way to achieve this would be for the Commission to add a national CVS to its suite of functions. The Commission should be making many more unannounced visits to service sites and needs to improve their responsiveness to notifications of adverse events or participants at risk. The CVS as part of the Commission's range of functions would be a vehicle to achieve these tasks and it is hoped that this will soon be recognised at a national level through reviews currently underway.

However, in view of the current expressed intention of the Commonwealth not to fund a national CVS, but to accommodate State/Territory CVS programs, any conflict between State and Commonwealth legislation on this issue needs to be addressed. A formal agreement between the Commonwealth and/or the NDIS Commission and the State about the operation of the State CVS within the NDIS context could be developed if there is commitment by both parties. This could include an amendment

to Commonwealth law; a delegation from the Commission; a rule made by the Commission for state-run CV Schemes; or a national CVS under the Commission.

Expert legal advice should be sought on how to resolve the legal conflict and then South Australia should work with the Commonwealth to create a scheme that is compatible with state and federal laws and able to provide well-being checks on potentially vulnerable people and provide intelligence to the Commission for the purpose of its monitoring and investigation functions.

Any agreement needs to cover the powers of the CVS, the definition of visitable sites and the nature of the visits, the reporting of matters of concern to the Commission (rather than the State Minister) and the sharing of information held by the Commission on visitable sites. Also, a scheme could be established that provides social connection visits to NDIS participants. If an agreement between the State and the Commonwealth is feasible adequate resources and capacity will be needed to deliver any agreed arrangements.

In the interim, the South Australian Government should affirm its commitment to CVS visiting services for which it has responsibility:

- Mental Health Treatment Centres and Authorised Community Mental Health Facilities under the *Mental Health Act 2009*
- State Government DHS Disability Accommodation Services
- Public Advocate clients who are participants of the NDIS.

In this context the South Australian Government could also consider CVS visits Supported Residential Facilities covered by the South Australian *Supported Residential Facilities Act, 1993*.

Safeguarding Gap 12

The commencement of the NDIS Quality and Safeguards Commissions on 1 July 2018 in South Australia has created issues with the scope of the Community Visitor Scheme.

5.5 Capacity Development and Advocacy

Addressing the ways that the NDIA and the Commission operate only deals with matters that are under their immediate control. Both are bureaucratic behemoths, ill-suited to managing individual idiosyncratic concerns. The citizen feels very small when dealing with these large agencies no matter how hard they try to be user-friendly.

The participant or their family needs a "go-to" person in the system. We have identified, in the absence of a case manager or social worker, that the support coordinator is the closest thing to exercising this role. When it comes to individual capacity building, the NDIS has not made best use of Local Area Coordination and the Information, Linkage and Capacity Building (ILC) grants program. LAC has been side-tracked into plan development, a role they weren't designed for and this has resulted in less community access information for people with disabilities. The ILC program administers grants that are designed to build the capacity of both individuals and communities but the only mechanism is time-limited grants to applicant agencies. The logic is to support projects that try new ideas and develop new approaches which are expected to be self-sustaining. There is no recognition that capacity building of individuals is an ongoing task – there are always new individuals needing this support.

The ILC grants are meant to target the building of the capacity of society to include people with disabilities and also the capacity of individuals to engage with society and exercise their choices in life and to take control.

At the state level, the *Disability Inclusion Act 2018* requires all government departments, instrumentalities, and local councils to have Disability Access and Inclusion Plans (DAIPs). The government is currently consulting on the state disability inclusion plan which provides guidance to departments around creating their own DAIP. The plan is a mechanism to build the capacity of society to be more accessible and inclusive of people with disabilities but there is also a need to increase the capacity of the individual to develop confidence and knowledge of their rights.

Many people we have spoken to have said that they have tried to make use of advocacy agencies, but they are fully booked and usually cannot help or can only help on a superficial basis. It may well be asked why advocacy is necessary when the NDIS and the Commission offer an array of personnel all tasked with assisting the individual to get what they need from the NDIS.

In practice, the participant often feels confused and disempowered before this system and needs "a friend who is on their side".

Safeguarding Gap 13

State and local government agencies have not yet invested sufficiently in achieving the goals of the Disability Inclusion Act 2018.

Access and inclusion mean that the person with a disability better connects to others and is likely much less at risk of abuse or neglect. The Disability Inclusion Act is the State's way of furthering the National Disability Strategy.

Safeguarding Gap 14

The State has not invested in individual advocacy to assist people with disabilities to navigate the service system and the community.

6 Conclusion

In producing this Report, the co-chairs have met with a large number of people to explore a range of important issues for example developmental safeguards, the unique needs and experience of Aboriginal people with disabilities, children and young people, and people from culturally and linguistically diverse groups.

For all safeguarding measures there is no silver bullet – no single measure that will completely solve the problem. There needs to be multiple approaches to ensure all matters are covered.

Vulnerability is increased by:

(a) social isolation from family, friends and neighbours,

(b) lack of proper care from a service provider,

(c) the NDIA not having external systems of checks through support coordination or local area coordination,

(d) the Commission not having an adequate system in place to vet the quality of the services and to respond to concerns about individuals, and

(e) the State government not having adequate mechanisms for people to access regular health checks, the ASU or community visitors and advocacy.

We need to look for triggers. We have a person with severe physical disabilities, why were there not more questions asked about them? Where were they, what are they doing and why did they never get in a taxi?

Trevor Harrison

There are significant flaws in the current system of safeguarding and the following fixes:

First, The NDIA needs to ensure that that they are aware of participants who are vulnerable and that, for them, there is ongoing independent support coordination in their plans and that plans cover health and equipment needs and are fully implemented. The NDIA must develop a methodology to assess the potential vulnerability of participants as part of the planning process, and put supports in place according to the participant's level of vulnerability. Plans also need to reflect the cultural needs of participants as well as their physical and social needs.

Second, the Commission needs to accept complaints/concerns/warnings from the general public or other agencies in whatever form they come as alerts requiring investigation and must require regular supervision of in-home workers by service providers as a condition of registration. The person with disability may prefer to rely on some electronic forms of monitoring rather than other people coming into the home regularly.

Third, the State needs to ensure that regular medical checks are available for vulnerable people, that the ASU is available for all vulnerable adults and that a community visitor scheme is in place to be additional eyes and ears to safeguard participants.

The State has transferred responsibility for the funding and regulation of disability services to the Commonwealth and the NDIS. It is, however, responsible for those specific tasks that are left to it under the NDIS agreement viz. screening of workers, the authorisation of restrictive practices and community visitor arrangements.

The NDIS has an admirable philosophy that the individual with a disability is to be empowered with:

(a) choice of lifestyle and service providers, and

(b) control over the way that funding in their plan is used.

In a nutshell, the NDIS is an insurance-based arrangement whereby the NDIS is responsible for funding and broad system parameters but does not take responsibility when things go wrong for the individual. The risk and the responsibility is deemed to lie with the individual participant.

The best safeguard for any potentially vulnerable individual is to have a number of people in their lives, who make sure the person is not left to their own devices when things go wrong. At least one of the extra pair of eyes seeing what is going on should come from proper supervision of support workers by the service provider agency, and ensuring that more than one support worker is involved, even if the participant only wants a single person whom they trust and respect.

> *We need to increase the capacity of people with disability to be more independent, make good choices and connect better with the community. Capacity building, linked closely to 'a good life', is seen by experts to be the key to avoiding abuse and neglect.*
>
> *The South Australian Minister's Disability Advisory Council 2011 - Inclusion&protection report.*

7 Safeguarding Gaps

7.1 Safeguarding Gap 1

Potentially vulnerable participants are not routinely identified and assigned ongoing support coordination in their NDIS Plan.

7.2 Safeguarding Gap 2

The support coordinator can be from the same agency that provides other core services for the individual, creating a conflict of interest.

7.3 Safeguarding Gap 3

Participants are not routinely linked to community activities so they are often isolated.

7.4 Safeguarding Gap 4

Participants are not identified as potentially vulnerable by the NDIA and prioritised by LAC when carrying out the community connection role.

7.5 Safeguarding Gap 5

NDIS plans do not routinely include strategies to minimise participant risk e.g. coordination of health care (including dental, sexual and mental health), technology to aid independence and safety, capacity building for asserting rights, and recognition of cultural matters.

7.6 Safeguarding Gap 6

Participants and their families are unclear about how to raise matters of concern with the Commission and the Commission does not routinely undertake proactive inspections to vet the performance of service providers.

7.7 Safeguarding Gap 7

The NDIS Quality and Safeguards Commission does not adequately consider the risk factors associated with the use of unregistered providers of personal support, particularly for potentially vulnerable participants.

7.8 Safeguarding Gap 8

The Commission does not explicitly require of all providers of personal support that there be at least two support workers for that individual (not necessarily at the same time) and that workers in participants' homes have regular supervision.

7.9 Safeguarding Gap 9

Regular health checks are not routinely made available to all vulnerable NDIS participants and their NDIS plan does not routinely include coordination of their health care.

7.10 Safeguarding Gap 10

There is currently no State agency to report abuse and neglect of vulnerable adults under 65 years of age.

7.11 Safeguarding Gap 11

The DHS Screening Unit is not quickly and fully provided with relevant information by the Commission, the NDIA and some State agencies, compromising the availability of information on an individual worker that might affect their suitability to work with people with disabilities.

7.12 Safeguarding Gap 12

The commencement of the NDIS Quality and Safeguards Commissions on 1 July 2018 in South Australia has created issues with the scope of the Community Visitor Scheme.

7.13 Safeguarding Gap 13

State and local government agencies have not yet invested sufficiently in achieving the goals of the Disability Inclusion Act 2018.

7.14 Safeguarding Gap 14

The State has not invested in individual advocacy to assist people with disabilities to navigate the service system and the community.

8 Recommendations

8.1 Recommendation 1

That the State Government communicate the matters raised in this report to the Commonwealth Government with special reference to Safeguarding Gaps 1 to 9, seeking a response on how these gaps must be addressed as soon as possible.

8.2 Recommendation 2

That the State Government address the need for vulnerable NDIS participants to have regular health checks including communicating to the Commonwealth Department of Health. (Safeguarding Gap 9).

8.3 Recommendation 3

That the State Government extend the scope of the Adult Safeguarding Unit to include younger adults at risk of abuse prior to 2022, commencing with people with disabilities. (Safeguarding Gap 10).

8.4 Recommendation 4

That DHS revisit the information sharing guidelines as they impact on screening of workers and, in particular, the availability of relevant information from the Commonwealth (Safeguarding Gap 11).

8.5 Recommendation 5

That the State Government reaffirm the value of a community visitor scheme as an additional safeguard for potentially vulnerable participants and work with the Commonwealth to establish a complementary scheme. (Safeguarding Gap 12).

8.6 Recommendation 6

That State and Local Government agencies provide for better access and inclusion so that people with disabilities can fully participate in society. (Safeguarding Gap 13).

8.7 Recommendation 7

That the State government invest in individual advocacy to assist individuals with accessing what they need from the NDIS and from the community. (Safeguarding Gap 14).

Acknowledgement:

The Co-chairs wish to thank the members of the Safeguarding Task Force for their hard work in reviewing and assisting with the creation of the text. The Task Force has been ably assisted by the executive staff comprising of Sandra Wallis, Diane Holty and Oliver Hales.

Kelly Vincent
Disability Rights Advocate

David Caudrey
Disability Advocate

Co-chairs of the Safeguarding Task Force

9 Attachments

9.1 Glossary

This glossary is a list of commonly used acronyms or terms throughout the report.

ACRONYM	FULL TITLE
ASU	Adult Safeguarding Unit
CVS	Community Visitor Scheme
DHS	Department of Human Services
ILC	Information Linkages and Capacity Building Grants
LAC	Local Area Coordinator
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
OFAW	Office for Ageing Well
SAPOL	South Australian Police
SDA	Specialist Disability Accommodation
SIL	Supported Independent Living
UNCRPWD	United Nations Convention on the Rights of Persons with Disabilities
YPIRAC	Younger People in Residential Aged Care

FULL TITLE	DESCRIPTION
Bilateral (Intergovernmental) Agreement	Signed agreements between the Commonwealth and the State detailing the operational and funding arrangements for the NDIS.
COVID-19	A respiratory illness caused by a new virus. The virus is transmitted from person to person and there is no current treatment or cure.
Complex Support Needs Pathway	Specialised support for participants who have other challenges impacting their lives such as mental health issues, incarceration or homelessness and need a higher level of specialised support in their plan.
Dept.- Health and Wellbeing (DH&W)	Responsible for setting the strategic direction for the delivery of health services in South Australia.
Health Performance Council SA	Statutory Ministerial advisory body to provide advice to Minister for DH&W on the performance of the State's health systems.
Medicare Benefits Scheme	A listing of the Medicare services that are subsidised by the Australian government managed by the Department of Health.
National Disability Abuse and Neglect Hotline	A nationally accessible service designed to aid the reporting of abuse and neglect of people with disability in Commonwealth, State or Territory funded disability services.
NDIS Code of Conduct (NDIS Providers)	Promotes safe and ethical service delivery by setting out expectations for the conduct of both NDIS providers and workers.
NDIS Rules	Legislative instruments made under the NDIS Act that set out in detail the operation of the NDIS.
NDIS Participant	To be a participant of the NDIS you must meet the following access criteria: • Are aged under 65 when the access request is made • Are an Australian citizen, permanent resident or special category visa holder • Satisfy either permanent or significant disability or early intervention requirements • Need support from a person or equipment to do everyday activities.
NDIS Funding	There are three options to manage your NDIS Funding: **Self-Management**: When you manage your funding **Plan Managed:** A plan manager is funded through your plan and pays your provider **NDIA (Agency) Managed**: NDIA pays providers on your behalf.
NDIS Unregistered	Not all providers need to register with the NDIS Commission.

provider obligations	Only self or plan managed participants can engage an unregistered provider and: • Can individually decide if they want workers of unregistered providers to have a NDIS Worker Screening Check • Will be able to make unregistered providers and their workers aware of their obligations under the NDIS Code of Conduct. The NDIS Commission can support people to make a complaint against an unregistered provider.
NDIS Q&S Commission	An independent agency established to improve the quality and safety of NDIS supports and services.
Office of the Public Advocate SA	Independent statutory office of the South Australian Government that exists to promote the rights and independence of people who may need assistance with decision making.
Psychosocial Disability	A psychosocial disability is when mental illness becomes pervasive and interferes with a person's functioning.
Royal Commission into Violence, Abuse, Neglect and Exploitation of people with Disability	Established in April 2019 in response to community concern and gathers information through research, public hearings, submissions and other forums. Final report to be delivered on 29 April 2022.
Support Coordination	**Support Connection**: To build your ability to connect with informal community and funded supports enabling you to achieve your goals **Support Coordination**: Assist you to build the skills you need to understand, implement and use your plan **Specialist Support Coordination**: For people whose situations are more complex, to assist you to manage challenges in your support environment and ensuring consistent delivery of services.
Visitable sites	As defined in each jurisdictions Community Visitors Scheme Legislation.
NDIS Worker Screening	NDIS Registered Providers must ensure that particular workers have an appropriate check as a mandatory requirement of registration. Risk assessed roles are: • Key personnel roles • Work in the delivery of specified supports or specified services (NDIS Practice Standard –Worker Screening) Rules 2018 • Roles that require physical, face to face contact and oral, written and electronic communication.

9.2 Safeguarding Task Force Members

NAME	POSITION/TITLE
David Caudrey	Disability Advocate Co-chair
Kelly Vincent	Disability Rights Advocate Co-chair
Trevor Harrison	Disability Advocate
Jacky Chant	Disability Advocate
Sam Paior	Founder and Director The Growing Space
Karen Rogers	Project Lead Our Voice
Marj Ellis	Chief Executive Officer Lighthouse Disability
Richard Bruggemann	Authorising Officer Attorney General's Department
Anne Gale	Public Advocate Office of the Public Advocate
Adam Kilvert	Executive Director Attorney General's Department
Cassie Mason	Director, Office for Ageing Well, SA Health
Lois Boswell	Act/ Chief Executive Department of Human Services

9.3 Terms of Reference

Safeguarding Task Force Terms of Reference

Purpose

The Safeguarding Task Force is a Task Force to examine the current gaps in oversight and safeguarding for people living with disability in South Australia.
The Task Force is co-chaired by Disability Advocate Dr David Caudrey and Disability Rights Advocate Kelly Vincent. Membership will include people with lived experience of disability, family members, a service provider as well as relevant government agencies, including the acting Principal Community Visitor Anne Gale.
The Task Force will consider gaps in safeguarding arrangement for people with disabilities in South Australia arising from the policies and practices of:

- the National Disability Insurance Agency
- the NDIS Quality and Safeguards Commission
- State Government instrumentalities.

The Task Force seeks to consider the gaps from a developmental, preventative and corrective perspective.
The Task Force will provide written reports including recommendations to the State Government regarding areas that need to be addressed urgently in order to safeguard South Australian citizens with disability.

Methodology

- Brief Task Force members prior to the first scheduled meeting.
- Seek information and advice from Task Force members, their networks and from other people who contribute to the Task Force deliberations
- Collate all information received and identify themes for rectifying policy and procedures for safeguarding
- Prepare and submit an interim report with urgent recommendations by 15 June 2020
- Prepare and submit a final report with full recommendations by 31 July 2020.

Membership

The Safeguarding Task Force is comprised of:

- David Caudrey, Disability Advocate (Co-chair)
- Kelly Vincent, Disability Rights Advocate (Co-chair)
- Sam Paior, Founder and Director, The Growing Space
- Trevor Harrison, Disability Advocate
- Jacky Chant, Disability Advocate
- Karen Rogers, Project Lead, Our Voice
- Marj Ellis, Chief Executive Officer, Lighthouse Disability
- Richard Bruggemann, Authorising Officer, Attorney-General's Department
- Anne Gale, Public Advocate and Acting Principal Community Visitor
- Adam Kilvert, Executive Director, Attorney-General's Department
- Cassie Mason, Director, Office for Ageing Well, SA Health
- Lois Boswell, Acting Chief Executive Department of Human Services.

Meeting Frequency

The meetings will be held via Microsoft Teams on:

- Wednesday 27 May 2020 at 4:30 pm
- Wednesday 10 June 2020 at 4:30pm
- Wednesday 15 July 2020 at 4:30pm.

Agenda and Papers

The Safeguarding Task Force agenda, with attached meeting papers, will be distributed at least 5 days prior to each scheduled meeting.

Minutes and Actions

The minutes of each Safeguarding Task Force meeting will be prepared by the Secretariat which will comprise Diane Holty and Sandra Wallis from the Office of the Public Advocate.
Minutes will be circulated in draft to each member of the Task Force prior to the next meeting and approved at that meeting subject to any modifications deemed necessary.

Reporting

The Co-chairs are required to provide a preliminary report to Cabinet by 15 June 2020 and a final report to Cabinet by 31 July 2020. A draft of the preliminary report will be prepared for the Task Force meeting on 10 June 2020 and a draft of the final report on 15 July 2020.

Approval

David Caudrey
Disability Advocate

Kelly Vincent
Disability Rights Advocate

9.4 Written submissions from Task Force Members

Below is a list of submissions from the Safeguarding Task Force members These submissions can be accessed on the Department of Human Services internet page regarding the Safeguarding Task Force. on the following link https://dhs.sa.gov.au/latest-news/safeguarding-taskforce.

If you would like to request a hard copy of any of these documents please email disability.advocate@sa.gov.au

9.4.1 Submissions from Trevor Harrison

9.4.2 Submissions from Richard Bruggemann

9.4.3 Submissions from Sam Paior

9.4.4 Submissions from Marj Ellis and Richard Bruggemann

9.4.5 Submission from Lois Boswell

9.5 Meetings with key people

Below is a list of people who Kelly Vincent and David Caudrey met with to inform the safeguarding reports. The meeting notes from these meetings can be accessed on the Department of Human Services internet page regarding the Safeguarding Task Force on the following link https://dhs.sa.gov.au/latest-news/safeguarding-taskforce.

Please note that the meeting notes have only been published where the meeting attendees have given their permission. Those with an asterix next to the name are people we have met with but do not have approval to publish the meeting notes.

If you would like to request a hard copy of any of these documents please email disability.advocate@sa.gov.au .

Meetings held with:

9.5.1 Dr. Betty-Jean Price - Disability Advocate

9.5.2 Emma Hinchey - Founder CEO & Advisor

9.5.3 My Plan Manager -Paul Jarvis and Claire Wittwer-Smith

9.5.4 Jayne Lehmann - Ed Health *

9.5.5 Robbi Williams - Purple Orange *

9.5.6 Prof Sally Robinson - Flinders University *

9.5.7 Maurice Corcoran and Lorna Hallahan *

9.5.8 Kendall Fields and Maggie Rutjens - DACSSA

9.5.9 The voice of Aboriginal People - Tanya McGregor (SA Health),

Tina Quitadamo (Nunga Mi:Minar Incorporated), Steven Newchurch and Darrien Bromley (Incompro), Anna Schkabaryn (Kera Yerlo)

9.5.10 JFA Purple Orange Design Council - Jackie Hayes, Tammy McGowan,

Mike Taggart, Jala Burton, Rachele Tullio, Katerina Michael, Andrew Gibson

9.5.11 Purple Orange Disability Elders of All Ages - Kathryn Mills,

Debra Carlyton, Jane Gersch, Maria Catanzariti, Jane Quirk.

9.5.12 Jeremy Moore and Michael Sachsse - Community Guardian

9.5.13 Nicky Dimitropolous

9.5.14 Leanne Longfellow

9.5.15 Karen Grob

9.5.16 ACT Government - Sally Gibson, Mandy Donley, Gabrielle McKinnon,

Debora Mesman, Amanda Charles and Wendy Kipling *

9.5.17 Del Stagg and Felicity Crowther - SACID

9.5.18 JFA Purple Orange Our Voice South Australia - Ian Cummins, Tiffany Littler, Gavin Burner, John Bradley, John Inglis, Elizabeth Crawford, Karen Rogers, Alison Vivian, Jackie Hayes. *

9.5.19 Luke Broomhall - Psychcheck

9.5.20 Beverly Emerson *

9.5.21 Heather Buck and Rosey Olbrycht - Citizen Advocacy South Australia

9.5.22 ActivOT -Vani Zeitouneh and Helen Whait

9.5.23 Phil and Heather Martin

9.5.24 The Law Society of South Australia -Tim White, Natalie Wade and Dr Anna Finizio

9.5.25 SA NDIS Psychosocial Disability Transition Taskforce Subgroup- John Brayley, Shandy Arlidge, Geoff Harris and Liz Prowse

9.5.26 Hon Alan Robertson *

9.5.27 Kelly Treloar and June Riemer- First Peoples Disability Network

9.5.28 Children and Young People with Disability Australia - Mary Sayers and Maeve Kennedy

9.5.29 Pru Gorman and Jayne Barrett - Community Living Project

9.5.30 Stewart Pope and Andrea Sherratt - McArthur

9.5.31 Jarrard O'Brien - Commission on Excellence and Innovation

9.5.32 Arnold Stroobach - Buurtzorg Australia

9.5.33 Jonathan Lardner - Access2Place

9.5.34 Andrew and Pat Coidan My Support Connection

9.5.35 Pop Up Health Care - Lara Farrington and Jane Pappin

9.5.36 Health Performance Council - Steve Tully, Ellen Fraser-Barbour and Andrew Wineberg *

9.5.37 Glenda Noble - OT Innovate *.

9.6 List of submissions

Submissions to the Safeguarding Task Force were received via the Disability Advocate in box, the Minister for Human Services Office and the Premier's Office.

Permission to publish these submissions has been provided by the authors.

The submissions can be found on the Department for Human Services internet page regarding the Task Force or by clicking on the following link https://dhs.sa.gov.au/latest-news/safeguarding-taskforce.

If you would like to request a hard copy of any of these documents please email disability.advocate@sa.gov.au

The following is a list of submissions.

- 9.6.1 - 19/5/2020 - Submission - Prue Gorman
- 9.6.2 - 20/5/2020 - Submission - Judy Barton
- 9.6.3 - 26/5/2020 - Submission - Karen Grob
- 9.6.4 - 25/5/2020 - Submission - Helen Whait
- 9.6.5 - 31/5/2020 - Submission - Peter Wilson
- 9.6.6 - 1/6/2020 - Submission - Samantha Connor
- 9.6.7 - 2/6/2020 - Submission - Athena Karabetsos
- 9.6.8 - 3/6/2020 - Submission - Nat Cook
  - 9.6.8.1 - Community Visitor Bill - Disability Task Force
  - 9.6.8.2 - Disability Inclusion (CVS) Ammendment Bill 2020 – Explanation of clauses
  - 9.6.8.3 - NDIS Commissioner Letter
  - 9.6.8.4 - Community Visitor Scheme Review Report
- 9.6.9 - 4/6/2020 - Submission - Dawn Brookes
- 9.6.10 - 9/6/2020 - Submission - SACID
- 9.6.11 - 11/6/2020 - Submission - Anon
- 9.6.12 - 11/6/2020 - Submission - Del Wine
- 9.6.13 - 12/6/2020 - Submission - Sue Versteeg
- 9.6.14 - 12/6/2020 - Submission - Anon
- 9.6.15 - 12/6/2020 - Submission - Phil and Heather Martin
- 9.6.16 - 12/6/2020 - Submission - Law Society of SA
  - 9.6.16.1 - Letter
  - 9.6.16.2 - Law Society of SA Analysis of Disability Inclusion Amendment Bill 2020
- 9.6.17 - 16/6/2020 - Submission - Katherine Annear

9.6.18 - 16/6/2020 - Submission - Anon

9.6.19 - 17/6/2020 - Submission - Angela Littleford

9.6.20 - 17/6/2020 - Submission - Keith Banfield

9.6.21 - 21/6/2020 - Submission - Anon

9.6.22 - 26/6/2020 - Submission -Tony Renshaw

9.6.23 - 29/6/2020 - Submission - Annette Herbert

9.6.24 - 1/7/2020 - Submission - Jeremy Moore - Community Guardians

9.6.25 - 1/7/2020 - Submission - Anon

9.6.26 - 2/7/2020 - Submission - SA NDIS Psychosocial Disability Transition Taskforce Subgroup

- 9.6.26.1 - Presentation to the SA Safeguarding Task Force
- 9.6.26.2 - Supporting information for presentation
- 9.6.26.3 - NDIS Transition Pilot Project Final Report
- 9.6.26.4 - Report - Review of the Community Visitor Scheme J Gardner Mar 2019
- 9.6.26.5 - National Standards for Mental Health Services
- 9.6.26.6 - Psychosocial recovery coach support item
- 9.6.26.7 - SA Health risk matrix

9.6.27 - 10/7/2020 - Submission - Anon

9.6.28 - 13/7/2020 - Submission - Leanne Longfellow

9.6.29 - 15/7/2020 - Submission - Arnold Stroobach - Buurtzorg presentation

9.6.30 - 24/7/2020 - Submission - Liz Forsyth - Brain Injury SA

9.6.31 - 24/7/2020 - Submission - Pru Gorman - Community Living Project

9.6.32 - 27/7/2020 - Submission - DACSSA - Report - Interface of Systems with Disability in SA

9.6.33 - 27/7/2020 - Submission - Louise McDonald.

9.6.34 - 27/7/2020 - Submission - Heather Buck and Rosie Olbrycht – Citizens Advocacy South Australia

- 9.6.34.1 – Press Release
- 9.6.34.2 – Email Heather Buck to Task Force
- 9.6.34.3 – Task Force Response on behalf of Citizens Advocacy SA Board Members
- 9.6.34.4 – Not everything that counts can be counted – Making a case for the cost effectiveness of Citizens Advocacy
- 9.6.34.5 – Email RE State Government Task Force.

9.7 Other documents

The following documents can be found on the Department for Human Services internet page regarding the Task Force or by clicking on the following link https://dhs.sa.gov.au/latest-news/safeguarding-taskforce.

If you would like to request a hard copy of any of these documents please email disability.advocate@sa.gov.au

9.7.1 Inclusion&protection: A dynamic safeguarding schema for South Australians with disability who are also vulnerable to neglect and abuse South Australian Minister's Disability Advisory Council

9.7.2 Media release Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 20 May 2020 – Statement regarding the death of Ann Marie Smith

9.7.3. Media Release NDIS Quality and Safeguards Commission 22 May 2020 NDIS Commission takes action against NDIS care provider of Ann-Marie Smith.

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9.9 Legislative Comparisons across jurisdictions for CVS

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
SA	**<u>SA has a disability CVS</u>** Relevant legislation: ***Disability Services (Community Visitor Scheme) Regulations 2013*** **(SA)** (‘*DS (CVS) Regulations’*) under the *Disability Services Act 1993.*	DHS	s 5(1): request to see a community visitor may be made by any of the following people: - (a) resident - (b) person attending a day options program - (c) a guardian, medical agent, relative, carer or friend of a person - (d) any other person who is providing support to a person s 5(2): request can be made to a manager or person of authority at the accommodation premises, and they must notify a community visitor of the request within 3 days after receipt.	***No legislative power to enter private homes.*** Community visitors have right to visit **disability accommodation premises** and **day options program premises** “any reasonable time”: 3 *DS (CVS) Regulations 2013.* **Importantly**, the *Disability Services Act 1993* relates to services funded by the State Government, meaning as of May 2019 the disability CVS no longer visit non-government disability services (as there is no funding relationship).	Powers contained within s 4 of the *DS (CVS) Regulations 2013.* For **disability accommodation premises**, includes right to inquire into: - The appropriateness and standard of the premises for the accommodation of residents: s 4(1)(a)(i) *DS (CVS) Regulations*. - Whether residents are provided with adequate information to enable them to make informed decisions about their accommodation, care and activities: s 4(1)(a)(iv) *DS (CVS) Regulations*. - Any case of abuse or neglect, or suspected abuse or neglect, of a resident: s 4(1)(a)(v) *DS (CVS) Regulations*. - The use of restrictive interventions and compulsory treatment: s 4(1)(a)(vi) *DS (CVS) Regulations*. - Any complaint made to a community visitor by a resident, guardian, medical agent, relative, carer or friend of a resident, or any other person providing support to a resident: s 4(1)(a)(viii) *DS (CVS)*

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
					Regulations. For visitation of **day options program premises**, the rights are effectively the same as above but contained in their own subsection: s 4(1)(ab). Additionally, for both **disability accommodation premises** and **day options program premises,** ability to: - Meet with a resident: s 4(2)(a) *DS (CVS) Regulations.* - Inspect the premises with permission of the manager: s 4(2)(b) *DS (CVS) Regulations.* - Request production of any documents or records and make copies of them: ss 4(2)(c) and (d) of the *DS (CVS) Regulations.*
NSW	**<u>NSW has a disability CVS</u>** Relevant Act: ***Ageing and***	The Ageing and Disability Commission has general oversight and coordination	No information about how to complain/request visitation from a community visitor in *Ageing and Disability*	***No legislative power to enter private homes.*** OCV's can enter and inspect any	Broad powers of Official Community Visitor set out under s 22 of the Act, includes powers to: - Enter and inspect a 'visitable service' at any reasonable time **without** providing notice:

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
	***Disability Commissioner Act 2019* (NSW)**	of Official Community Visitors: s 23(1). However, advice and matters can also be directed to the Minister for Families, Communities and Disability Services **or** the NSW Ombudsman.	*Commissioner Act 2019* (NSW).	'visitable service', which under s 20 includes: - Accommodation services where an adult is in the full-time care of a service provider - Assisted boarding houses - Any other service prescribed by the regulations as a visitable service (currently none).	s 22(1)(a). - Talk alone with anyone (resident or employee) at the premises: s 22(1)(b). - Inspect any document held at the premises that relates to the operation of a visitable service: s 22(1)(c). - Provide the Minister and the Commissioner with advice or information relating to the conduct of the premises, as well as matters affecting the welfare, interests and conditions of persons using visitable services: ss 22(1)(d) and (e).
VIC	**<u>Victoria has a disability Community Visitor Scheme</u>** Victoria has three steams of community visitation: - Disability Services Community Visitors under	Community Visitors are overseen by the Victorian Office of the Public Advocate.	No information about how to directly complain/request visitation from a community visitor in *Disability Act 2006* (VIC). **However**, anyone can complain to the Disability Services Commissioner regarding a service	***No legislative power to enter private homes.*** For **Disability Services Community Visitors** under the *Disability Act 2006* (VIC), can visit "any premises where a disability service provider is providing residential services": s 30. For **Supported Residential Services**	Powers differ slightly depending on the stream (disability services, mental health, or SRS). For **Disability Services Community Visitors** under the *Disability Act 2006* (Vic), power to inquire into: - The standard of the premises: s 30(a). - Whether treatment of a resident meets a standard of decency based on the principles in section 5: s 30(c). - Any case of suspected abuse or neglect: s

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
	the ***Disability Act 2006*** **(VIC).** - Mental Health Community Visitors under the ***Mental Health Act 2014*** **(VIC).** - Supported Residential Services (SRS) Community Visitors under the ***Supported Residential Services (Private Proprietors) Act 2010*** **(VIC).**		provider: ss 109, 110 *Disability Act 2006* (VIC).	**(SRS) Community Visitors** under the *Supported Residential Services (Private Proprietors) Act 2010* (Vic), can visit "supported residential services", which under s 5 means: - Premises where accommodation and personal support are privately provided or offered to residents for a fee or reward. **But** does not include aged care facilities, retirement villages, or accommodation and personal support or nursing care services that are provided to a person in respect of whom a residential care subsidy is payable under Commonwealth legislation: s 5.	30(e). - The use of restricted practises or compulsory treatment: s 30(f). The above powers are also the same for Specialist Disability Accommodation (SDA) dwellings: s 30A. For **Supported Residential Services (SRS) Community Visitors** under the *Supported Residential Services (Private Proprietors) Act 2010* (Vic), powers include: - Right to enter and look at any part of the premises of a supported residential service: s 187(1)(a). - Speak with any resident or employee: s 187(1)(b) and (c).
QLD	**<u>Queensland has a disability CVS</u>** Main Act: ***Public Guardian Act 2014*** **(QLD)** (this is the act being referenced in this	Overseen by the Queensland Office of the Public Guardian. More than 140 CV's working across 13	A **child** under care at a visitable home or site can request visitation from a community visitor: ss 59, 60 *Public Guardian Act 2014* (QLD). - Can make the request through the public	Two separate streams of visitation for children and adults. **<u>Children:</u>** Right to visit 'visitable sites', which	Different powers depending on whether a child or adult is being visited. **<u>Children:</u>** - Broad powers to do 'all things necessary or convenient' in order to assess the adequacy and appropriateness of a place.

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
	row) Also: ***Public Guardian Regulations 2014*** **(QLD)**	zones, with each zone having its own Regional Visiting Manager.	guardian, an authorised officer or a carer. An **adult** under care at a visitable site can request visitation from a community visitor: s 43(1) *Public Guardian Act 2014* (QLD). - Can make the request through the public guardian or by asking a staff member at the site: s 43. **Note: the legislation does not say whether interested parties can request visitation on <u>behalf</u> of a child or adult – just says the resident can do it themselves.**	under s 51 means: - A residential facility where the child is staying - A detention centre where the child is staying - A corrective services facility where the child is staying - An authorised mental health service where the child is staying Also, the right to visit '**visitable homes**', where the child is in the custody or guardianship of someone other than their parent (through the Queensland *Child Protection Act 1999*) (i.e. foster homes). **<u>Adults</u>:** Right to visit 'visitable sites', which under s 39 means: - An authorised mental health service provider that provides inpatient services - Forensic disability services - A place, other than a private dwelling, in which an adult lives and receives NDIS services: Schedule 1	- For **visitable sites**, power to: ○ Enter during normal hours without notice: s 67(1)(a). ○ Enter outside normal hours (requires authorisation from Public Guardian): s 67(1)(b). ○ Inspect the site: s 67(1)(c). ○ Talk in private to the child staying there: s 67(1)(d). ○ Require staff members to produce documents: s 67(1)(f). - For **visitable homes**, must receive access through either consent of the carer there or an authorised warrant: s 61. ○ However once inside have power to look around and assess its appropriateness for accommodation, talk with the child privately, and talk with the carer: s 66. **<u>Adults</u>:** - Broad power to do 'all things necessary or convenient' in order to assess the adequacy and appropriateness of a site: ss 44, 41. - Includes ability to: ○ Enter the site during normal hours without notice: s 44(1)(a).

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
				Public Guardian Regulations 2014 (Qld).	○ Enter the site outside normal hours (requires authorisation from the Public Guardian): s 44(1)(b). ○ Require staff members to answer questions and produce documents: s 44(1)(c).
WA	**<u>WA does not have an official disability CVS</u>** The closest it has are two separate complaints schemes under the ***Disability Services Act 1993*** **(WA)** and the ***Health and Disability Services (Complaints) Act 1995*** **(WA).** - The important distinction here is that there is no automatic right of access to a site – **such a power only**	Health and Disability Services Complaints Office (HaDSCO) – independent statutory authority Also note: from December 2020 the NDIS Quality and Safeguards Commission will be responsible for receiving complaints about disability service providers under the NDIS in WA. However until then the Health and Disability Services	N/A	The Health and Disability Services Complaints Office can only visit premises through a warrant: s 63 *Health and Disability Services (Complaints) Act 1995* (WA). **No automatic right of visitation due to no official community visitor scheme.**	The Health and Disability Services Complaints Office receives complaints that: - A health service has been unreasonably denied. - Health service has been provided in an unreasonable manner. - Unreasonable denial of access to records or breach of privacy. - Not investigating or improperly investigating complaints. - Overcharging. Once a complaint has been made, the Health and Disability Services Complaints Office has limited investigation powers, namely, to request information and the production of documents: s 41 *Disability Services Act 1993* (WA). **During investigation of a complaint the**

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
	arises once a complaint has actually been made.	Complaints Office will be responsible for this (including disability services provided to individuals who have NDIS plans through the NDIA, for individuals who have transferred from WA NDIS to the NDIS, and for individuals who continue to receive services through the State Government or its contracted service providers).			**Health and Disability Services can only visit premises through a warrant – no automatic right of access: s 63 *Health and Disability Services (Complaints) Act 1995* (WA).**
TAS	**<u>Tasmania does not have an official disability CVS</u>**	No CVS, but Department of Health responsible for *Disability Services Act 2011* (Tas): s 54 of the act. - Complaints or allegations of	N/A	**No automatic right of visitation due to no official disability Community Visitor Scheme.** Department of Health employees or officers can be authorised to enter a funded provider's premises or private	S 28 of *Disability Services Act 2011* Tas) outlines the rights of authorised officers entering premises, includes ability to: - Inspect the premises (including right to open any containers or cabinets) - Request a person on site to provide information or documents

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
		abuse can also be reported to Tasmanian Disability and Community Services. Additionally, the Tasmanian Health Complaints Commissioner can receive and investigate complaints under the *Health Complaints Act 1995* (Tas).		funded premises: s 25 *Disability Services Act 2011* (Tas). - Done for the purposes of ensuring that a person residing there is receiving the care and support necessary for their health and wellbeing: s 26(2) *Disability Services Act 2011* (Tas). Additionally, the Tasmanian Health and Complaints Commissioner can investigate complaints **but can only inspect a site with a warrant**: s 47 *Health Complaints Act 1995* (Tas).	
ACT	**<u>ACT has a disability Official Visitors Scheme</u>** Relevant Act: The	The ACT Public Trustee and Guardian (ACT)	An entitled person at a visitable place, or **anyone else,** can request visitation from an official visitor: s 21(1) *Official*	***No legislative power to enter private homes.***	Official visitors have ability to enter a "visitable place" at any reasonable time, either following an official complaint or on their own initiative: s 15(1) *Official Visitor Act 2012* (ACT).

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
	***Official Visitor Act* 2012 (ACT)** establishes the ACT's Official Visitor Scheme, with each scheme having its own separate legislation. - The disability Community Visitor Scheme overseen by the ***Disability Services Act 1991* (ACT).**		*Visit Act 2012* (ACT). - The operating entity must notify an official visitor within 24 hours of a request: s 21(2).	Official visitors have ability to visit a "***visitable place***", meaning "*accommodation provided to an entitled person for respite or long-term residential purposes*": s 8B(1)(a) *Disability Services Act 1991* (ACT). This includes (per s 8B(1)(b)): - (i) Accommodation that is owned, rented or operated by a specialist disability service provider - (ii) Accommodation at which a specialist disability service provider provide a specialist disability service - (iii) A residential aged care facility that accommodates the entitled person **But does not include** (per s 8B(2)): - (a) A private home if the person receives a specialist disability service from someone who isn't a disability service provider - (b) A private home if the person lives in the home with at least 1 adult family member who does not receive a specialist disability service from a	Broad powers, including ability to: - Inspect any health record or other record o Requires either the resident's consent, reasonable belief from the visitor that the resident has the inability to consent, or a belief that it's necessary to carry out their investigation regardless: s 15(2) *Official Visitor Act 2012.* - Monitor the conditions, services and practises in place: s 14(1)(b) *Official Visitor Act 2012.* - Investigate and seek to resolve complaints: s 14(1)(d) *Official Visitor Act 2012.* - Identify and report on systemic issues adversely affecting entitled people at the place: *Official Visitor Act 2012.*

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
				specialist disability service provider at the home - (c) Accommodation if the only specialist disability service the person receives at the accommodation is a type of service declared by the Minister not to require visitation - (d) A residential aged care facility if the person is 65 years old or older when they first receive a specialist disability service (whether at the facility or elsewhere)	

	Authorization	Department	Requesting visitation	What they can visit	Relevant Powers
NT	**<u>NT has a disability CVS</u>** Relevant Act: ***Disability Services Act 1993*** **(NT)**	Is an independent service under the Anti-Discrimination Commission (NT)	Complaints can be made to the manager of the residential facility by any interested party: s 46. - Manager has responsibility of investigating complaints and keeping records of them. Managers must also ensure residents or interested parties are given information about community visitors and their right to request one. **Accordingly, a resident or interested person can request visitation from a community visitor: s 58.** - "*Interested person*" means a guardian, decision maker, primary carer, or another person interested in the resident's right: s 58(2). - Manager must ensure such a request is sent to a community visitor within 24 hours: s 58(4).	***No legislative power to enter private homes.*** A community visitor may visit (without notice) a **residential facility** at "any reasonable time": s 57(2) *Disability Services Act 1993* (NT). Per section 2, "**residential facility**" includes: - A secure care facility - An appropriate place other than a secure care facility - Other premises operated by the Agency to provide services for the treatment and care of people with a disability	Powers (per s 57(2)): - Speak with residents of a residential facility - Inspect a residential facility and any documents relating to residents of the facility made or kept for the Act. Additionally, under s 55(1) *Disability Services Act 1993* (NT), community visitors can inquire and make recommendations relating to: - (a) The adequacy of information relating to the rights of residents receiving treatment and care at residential facilities: - (b) The accessibility and effectiveness of the complaint procedures in place: - (c) The failure of persons employed in residential facilities to comply with the Act. - (d) The use of restrictive interventions: - (e) Any matter the community visitor considers appropriate having regard to the treatment and care principles - (f) any matter as directed to the principal community visitor by the Minister