

**Response of the Office of Public Guardian to the Community Affairs Legislation Committee  
Questions on Notice - Public Hearing into the National Disability Insurance Scheme  
Amendment (Improving Supports for At Risk Participants) Bill 2021**

**Office of the Public Guardian's internal definition that is used in our systems around 'vulnerability' and 'at risk'**

- A person's vulnerability and their risk of being subject to harm and neglect are concepts that have been recently explored by the Office of the Public Guardian in systemic advocacy in relation to people with impaired decision-making capacity and appropriate supports.
- A participant's vulnerability may be impacted by:
  - the level of complexity of the participant's disability or disabilities and what this means for the range of supports to be managed
  - whether the participant's circumstances mean there are one or more intersections with other service systems to manage (e.g. justice, health, child protection, voluntary out of home care or housing)
  - the stability of the participant's living arrangements
  - the participant's location, and any cultural considerations
  - the extent, stability and capacity of a participant's informal support network
  - the extent of the participant's social and economic participation and engagement
  - the appointment of a substitute decision maker of last resort
  - any physical or communication limitations for the participant.

All these factors (except the last two) were considered in the Tune Review<sup>1</sup> as factors that should inform a participant's level of funded support coordination in their initial plan and ongoing funding in future plans. It is the view of the Office of the Public Guardian that there is an intrinsic link between a person's vulnerability and their need for funded support coordination within their NDIS plans.

- The *Office of the Public Guardian Notifications to the Public Guardian Policy* (Attachment A) is an internal mechanism whereby certain matters are brought to the attention of the Public Guardian for further consideration and action and to inform systemic action and advocacy. This policy does not define a represented person<sup>2</sup> in terms of 'vulnerability' or 'at risk' but does include a risk assessment to determine if the represented person is at risk of harm.
- In the exercise of the Public Guardian's decision-making authority adult guardianship officers are continually called upon to consider the risk to a represented person of any decision of the Public

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<sup>1</sup> Tune Review; David Tune AO PSM (2019) *Review of the National Disability Insurance Scheme Act 2013*.

<sup>2</sup> A represented person is a person who is the subject of a guardianship order under the *Guardianship of Adults Act 2016*.

Guardian. The *Office of the Public Guardian Decision Making and Recording Policy and Procedure* (Attachment B) and *Assessing Risk in Guardianship Decision Making* (Attachment C) both refer to these risk assessments.