



Standing Committee on Community Affairs  
Kate Campbell  
A/G Committee Secretary  
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3 April 2023

### ***Re. Invitation to Submit – Inquiry into the Inspector-General of Aged Care Bill 2023***

We write to the Standing Committee on Community Affairs – Legislation Committee, in response to an invitation to provide a submission on the *Inspector-General of Aged Care Bill 2023*. Aged Care Justice and Aged Care Reform Now wish to provide a joint a submission. We are independent organisations but have combined resources for this submission, as we represent the rights and interests of Australian aged care recipients. Our submission makes some observations and recommendations to ensure the Inspector-General’s objectives, powers, complaints oversight, reporting and consultation meet the intentions of the Royal Commission into Aged Care and support aged care recipients. A significant issue in aged care is that any reviews are timely and capable of immediate response, as any delays may have a significant impact on many frail and elderly people reliant on the consistent delivery of quality aged care services.

#### **1. OBJECTIVES**

The following sections of the draft Bill are inconsistent with its object under s 3 to ‘drive greater accountability and transparency of the Commonwealth’s administration of the aged care system, and facilitate positive change for older Australians, by establishing an *independent* Inspector-General of Aged Care’.

#### **2. COMPLAINTS OVERSIGHT**

**Recommendation 1.** In the Final Report by the Royal Commission into Aged Care Quality and Safety, it was recommended that a key role of the Inspector-General is to ‘review regulator decisions on a *systematic basis* to ensure regulator integrity and performance’ and ‘monitor the adequacy of aged care data collection and analysis’ (Rec. 12(c)). Currently, the draft Bill does not include a prescribed system or regulatory function in which the Inspector-General consistently reviews the regulator’s performance, outside of conducting reviews, which are discretionary. We recommend that the Inspector General performs an oversight function over the regulator as a statutory consideration.

**Recommendation 2.** To enable the Inspector General to meet the objectives of systemic review, we recommend a process by which the regulator (currently the ACQSC) identifies and reports on issues in need of review to the Inspector-General. The process must be proactive in its approach such as quarterly reporting to the Inspector-General by the regulator on complaints received and handled, to ensure the Inspector-General can effectively recognise and address systemic issues. This is vital to timely management of serious aged care issues, and to avoid delays in the investigation of crucial matters.

**Recommendation 3.** The Royal Commission recommended that complainants who are not satisfied with how a complaint has been handled by the regulator or believe the complaint warrants the attention of the Inspector-General, can go direct to the Inspector-General. This will ensure the Inspector-General is informed of any serious mismanagement of the complaints process, allow transparency and build consumer confidence.

### **3. REPORTING**

#### **Reviews of implementation of Aged Care Royal Commission recommendations**

**Recommendation 4.** Sections 22 and 24 state that the Inspector-General is to report on the progress of the implementation of the Aged Care Royal Commission recommendations, with the first review scheduled for 2026 and second in 2031. We say, that the Inspector-General should report annually commencing in 2024, as it's in the public interest and will improve public confidence in the Government's implementation of the recommendations. We recommend annual progress reporting to ensure a coordinated and effective approach for implementing the Royal Commission recommendations, and to allow for changes in approach or strategy to be actioned as required. Further, if the report is delayed, incomplete or limited in scope, the report should set out the issues related to its delay and its content limitations. Transparency in reporting regarding the nature of the report, which include any delays and level of content is necessary for aged care reporting in the public interest.

### **4. GENERAL COMMENTS**

We understand that the Inspector-General is one of several new roles and offices that the Royal Commission recommended establishing, others include the Aged Care Complaints Commissioner and the Aboriginal and Torres Strait Islander Aged Care Commissioner.

The findings of the Capability Review of the ACQSC are also yet to be released. As such, there may be further recommendations with respect to the powers and the role of the Inspector General, based on the findings of this review, and how that would impact the role of the Inspector-General.

#### **The organisations behind this joint submission:**

##### **Aged Care Justice**

Aged Care Justice Inc (formerly ALARM) is a registered charity supporting Australians living in residential aged care or receiving home care, by providing access to legal services, educational material on aged care rights and lobbying for sector reform. Aged Care Justice was formed in 2020 by senior legal and clinical professionals to ensure all Australians receive quality aged care services and are treated with dignity and respect. When a person contacts Aged Care Justice, we listen to their issue and connect them with a lawyer with experience in aged care issues who will provide a free legal consultation anywhere in Australia. Our panel of firms have agreed to identify the most efficient and economical way to proceed after the initial consultation, including pro bono for those who qualify. The Chair of Aged Care Justice is Dr Bryan Keon-Cohen AM KC and our Patron is the Honourable Tony Pagone AM KC, a former Federal Court Judge and Chair of the Royal Commission into Aged Care Quality and Safety. **Website:** <https://www.agedcarejustice.org.au/> **Contact:** [info@agedcarejustice.org.au](mailto:info@agedcarejustice.org.au)

##### **Aged Care Reform Now**

Formed in 2021, Aged Care Reform Now's (ACRN) grassroots advocacy has been informed by its membership's lived experience of the aged care system, and the associated grief and trauma. Having made submissions to the Royal Commission and formal complaints to aged care facilities, the Aged Care Quality and Safety Commission (ACQSC), the ACQSC Health and Disability Services Complaints Office, HaDSCO, and Advocare, to no avail, ACRN members are channelling their energy and desire for closure into advocacy for comprehensive, systemic reform. ACRN Committee Members located in NSW, QLD, Victoria and WA proactively engage with politicians, participate on Department of Health webinars, participate in consultations with the ACQSC Consumers and Families Panel, and have been invited by Ian Yates to join a working group within the Council of Elders.

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