

Secretary, NSW Treasury
Secretary, Department of Customer Service
Secretary, Department of Planning, Industry and Environment
Secretary, Transport for NSW
Secretary, Ministry of Health
Secretary, Department of Education
Secretary, Department of Communities and Justice

Dear All

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability – Preservation of historical State records

A Royal Commission into violence, abuse, neglect and exploitation of people with disability was established by the Commonwealth Governor General by Letters Patent on 4 April 2019.

The Prime Minister wrote to the States requesting that they arrange for Letters Patent in equivalent terms to be issued by State Governors. On 17 April 2019, the NSW Governor issued Letters Patent under the *Royal Commissions Act 1923* (NSW) in equivalent terms to the Commonwealth Letters Patent.

On 13 September 2019, the Governor General amended the Commonwealth Letters Patent to appoint a seventh Commissioner and to provide detail on the role of the Chair. On 2 October 2019, the NSW Governor approved amended Letters Patent in equivalent terms to the Commonwealth Letters Patent.

The Royal Commission's terms of reference include inquiring into the following matters:

- a) what governments, institutions and the community should do to prevent, and better protect, people with disability from experiencing violence, abuse, neglect and exploitation, having regard to the extent of violence, abuse, neglect and exploitation experienced by people with disability in all settings and contexts
- b) what governments, institutions and the community should do to achieve best practice to encourage reporting of, and effective investigations of and responses to, violence against, and abuse, neglect and exploitation of, people with disability, including addressing failures in, and impediments to, reporting, investigating and responding to such conduct
- c) what should be done to promote a more inclusive society that supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation
- d) any matter reasonably incidental to a matter referred to in paragraphs (a) to (c) or that the Commissioners believe is reasonably relevant to their inquiry.

The Royal Commission is to have regard to the following matters:

- a) all forms of violence against, and abuse, neglect and exploitation of, people with disability, whatever the setting or context
- b) all aspects of quality and safety of services, including informal supports, provided by governments, institutions and the community to people with disability, including the National Disability Insurance Scheme (NDIS) and the NDIS Quality and Safeguarding Framework agreed by all Australian Governments in 2017
- c) the specific experiences of violence against, and abuse, neglect and exploitation of, people with disability are multilayered and influenced by experiences associated with their age, sex, gender, gender identity, sexual orientation, intersex status, ethnic origin or race, including the particular situation of Aboriginal and Torres Strait Islander people and culturally and linguistically diverse people with disability
- d) the critical role families, carers, advocates, the workforce and others play in providing care and support to people with disability
- e) examples of best practice and innovative models of preventing, reporting, investigating or responding to violence against, and abuse, neglect or exploitation of, people with disability
- f) the findings and recommendations of previous relevant reports and inquiries.

The Royal Commission may traverse matters that occurred many years ago.

In accordance with the *State Records Act 1998* (NSW), the records of NSW Government agencies are subject to rules regarding their retention and protection, including in certain cases the time period for which they must be retained and after which they may be disposed of.

In light of the commencement of the Royal Commission, and the prospect that it may need to access historical material, I am now writing to all agencies to request that they take whatever practicable steps are available to ensure that these normal administrative practices with regard to the disposal of records do not result in the loss or destruction of any records that may be required in evidence before the Royal Commission.

This may require agencies to conduct a risk assessment to determine if they hold past or current records that are reasonably likely to be required by the Royal Commission. It may also require agencies to suspend the application of their Document Disposal Schedules under their relevant State Records Disposal Authority in respect of certain documents, for example, case records of allegations or investigations regarding matters of violence, abuse, neglect or exploitation of people with disability.

It is noted that it is an offence under section 23 of the *Royal Commissions Act 1923* (NSW) to wilfully destroy any document or other thing that is or may be required in evidence before a Royal Commission. A similar offence applies in section 6K of the *Royal Commissions Act 1902* (Cth) in respect of a Commonwealth Royal Commission.

Yours sincerely



Tim Reardon
Secretary
20 February 2020