Community Visitor Schemes Review

Department of Social Services for the Disability Reform Council, Council of Australian Governments

December 2018

CONFIDENTIAL FINAL REPORT

Acknowledgement of Country

WestWood Spice acknowledges the Aboriginal and Torres Strait Islander traditional Owners and Custodians of Country throughout Australia and recognises their continuing connection to land, water and community.

Acknowledgements and thanks

WestWood Spice thanks the many individuals and organisations who participated in the Review, contributing their time to share their experience, discuss community visiting and explore ideas.

We would also like to thank the Working Group and the team members who assisted us with all the practical challenges of a national consultation.

Working Group

The project was overseen by a working group comprising representatives from all states and territories, the National Disability Insurance Agency and NDIS Quality and Safeguards Commission, chaired and coordinated by the Department of Social Services.

WestWood Spice Team for this project

Alison Plant, Susan Warth, Jenny Owen, Mark Clayton, Liz Cunneen, Francesca Piazzi

Alison Plant
WestWood Spice
Email: alisonplant@westwoodspice.com.au
Level 2, 10 Mallett Street
Camperdown NSW 2050
Ph: 02 8594 0594 | Fax: 02 8594 0595
Web: www.westwoodspice.com.au

This document reflects working group comments provided 11 February 2019 and feedback following further review in April 2019

Table of Contents

List of Tables

List of Figures

List of Appendices (see separate document)

Abbreviations and acronyms

AHRC	Australian Human Rights Commission
ALRC	Australian Law Reform Commission
COAG	Council of Australian Governments
CRPD	Convention on the Rights of People with Disabilities
CVP	Community Visitor Program
CVS	Community Visitor Schemes
DHHS	Department of Health and Human Services
DSC	Disability Services Commissioner
DSS	Department of Social Services
HaDSCO	Health and Disability Services Complaints Office
HCC	Health Complaints Commission
HCCC	Health Care Complaints Commission
HCPs	Home Care Packages
HCSCC	Health and Community Services Complaints Commission
HSC	Health Services Commission
IGUANA	Interagency Guideline for Addressing Violence, Neglect and Abuse
MHAS	Mental Health Advocacy Service
MOU	Memorandum of understanding
NGO	Non-government organisation
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NDIS Commission	NDIS Quality and Safeguards Commission
NDIS Framework	NDIS Quality and Safeguarding Framework
NDS	National Disability Strategy
NDS NT	National Disability Services Northern Territory
NPM	National Preventative Mechanism (Under OPCAT)
OCV	Official Community Visitor
OHO	Office of the Health Ombudsman
OOHC	Out of home care
OPA	Office of the Public Advocate
OPCAT	Optional Protocol to the Convention against Torture
OPG	Office of the Public Guardian
OPGT	Office of the Public Guardian and Trustee
OV	Official Visitor

OVD	Official Visitor Disability
SDA	Specialist Disability Accommodation
SIL	Supported Independent Living
SRF	Supported Residential Facilities
SPT	United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
SRS	Supported Residential Services

Terminology

The term **Community Visitors** (Visitors) is used throughout this report to refer to *Official Visitors (OV), Official Visitors Disability (OVD)* and *Official Community Visitors (OCV)* to disability services. The role title may vary between jurisdictions. It includes both paid visitors and volunteers appointed by statute.

The term **Community Visitor Schemes** (CVS) is used to describe the administration and support of Community Visitors by a co-ordinating agency. Scheme coverage may be broader than the focus of this report, which is disability services. For example, in Queensland the scheme covers both Adult and Child facilities, with 52% of Visitors attending both. Sometimes staff (other than Visitors) within schemes also visit and report on services.

The **National Disability Insurance Agency** (NDIA) is responsible for the implementation and administration of the National Disability Insurance Scheme (NDIS).

The **NDIS Quality and Safeguards Commission** (NDIS Commission) is an independent body "working with providers to improve the quality and safety of NDIS supports and services, investigate and resolve problems, and strengthen the skills and knowledge of providers and participants across Australia."[1]

Transition in the context of the introduction of the NDIS refers to progressive implementation across Australia or "NDIS full scheme roll out". Full transition to the NDIS is expected to be complete in 2020. Phasing rules inform when the NDIA must facilitate access to NDIS planning for different groups of people with disability.

Executive summary

> *People with disability are more vulnerable to violence, exploitation and neglect than others in the community. People with disability fare worse in institutional contexts where violence may be more common.*
>
> National Disability Strategy 2010-2020[2]

The Council of Australian Governments (COAG) has set out a clear policy direction for people with disability to be safe from violence, exploitation and neglect within the National Disability Strategy (NDS). The disability services sector is undergoing significant national reform through the implementation of the National Disability Insurance Scheme (NDIS) in Australia. The NDIS Quality and Safeguards Commission (NDIS Commission) is newly established and is making progress in setting nationally consistent quality and safeguarding arrangements for the registration standards of service providers, an independent complaints mechanism, improvements to worker screening, and new provisions for monitoring and overseeing restrictive practices. States and territories maintain some responsibilities related to disability services such as worker screening and the authorisation of restrictive practices, as well as maintaining oversight of service quality during transition to the NDIS. The NDIS Commission is launched in New South Wales and South Australia. Until the NDIS Commission is in place in each state and territory, NDIS participants, providers and workers are covered under their state or territory's existing quality and safeguards system.

The purpose of the Community Visitor Schemes (CVS) Review (the Review) was to consider the role, if any, of community visiting in the context of the NDIS when fully implemented in 2020. The Review methods included face-to-face meetings and interviews in every capital city, as well as telephone interviews and an online survey. WestWood Spice spoke with 195 people to inform this report. Interviewees included people with disability, family members, advocates and academics as well as Community Visitors, the leadership of CVS, co-ordinating organisations, other community visiting programs as well as government departments, peak bodies and service providers.

Context

The context of the Review recognises the significant problem of abuse and neglect experienced by people with disability. Numerous inquiries by Australian governments have highlighted concerns at the prevalence of abuse and the lack of reliable statistical data available to inform policy.

Australia is a party to international treaties that guide the positive action required to uphold the human rights of people with disability including the right to be free from exploitation, violence and abuse. Australian governments have developed policy and legal frameworks to guide planning and safeguarding.

Community Visitor Schemes (CVS)

There are currently six different state and territory-based schemes involved in visiting disability services in Australia. Schemes vary in scope, scale and design. As well as vulnerable NDIS participants, some schemes visit people in forensic disability facilities, mental health units or children in Out of Home Care.

Community Visitors hold their roles as statutory appointees under a variety of legislative instruments. Appointments are made by the State Governor, Public Guardian or relevant Minister, usually for three-year terms. In two schemes, the appointees are volunteers. Visitors work within frameworks established with a co-ordinating department and have powers relating to announced and unannounced visiting. Western Australia and Tasmania do not currently operate CVS for disability services.

What do Community Visitor Schemes achieve?

In 2016-17 CVS made over 12,000 visits to adult disability services.[3] The broad purpose common to all the CVS considered by this review is to visit people with disability and independently monitor if their human rights are being met by the service systems they rely on. At their best, CVS achieve important outcomes for people with disability in services, encouraging them to express their views, listening, building capacity in asserting rights or linking with supported decision-making processes and advocates. Visiting in person and talking assists people with disability to build confidence and experience in expressing their views and needs. By tracking service responses to issues CVS can also demonstrate that it is worth complaining, as well as being safe to do so.

Disability services indicated strong support for CVS in all the jurisdictions with schemes. As well as assisting in the local resolution of issues and complaints they play a capacity-building role in identifying good practice. They also escalate serious matters and enable systemic issues to be identified.

Does the Community Visitor role need to change?

Issues raised impacting on the effectiveness of CVS relate to three broad areas:

- The context within which schemes operate. Factors include the changes to the NDIS landscape, authority to visit and the nature of a more diverse disability housing market. In the future there will be many more accommodation types and actual locations, as well as potentially multiple providers for each individual. There is also the question of service provision taking place in the family home.

  States and territories may wish to consider whether their Community Visitors have sufficient legislative authority to enter and inspect. The way this authority is provided, if administered by states and territories, should be a matter for those states and territories. Some states and territories may not be satisfied with relying on delegations, whereas others may be. This issue should be addressed through a

policy decision/drafting practice in each state or territory. As an example the Australian Capital Territory amended the *Disability Services Act 1991* on 7 December 2018 to change the definition of "visitable place" in response to this changing service landscape.

- Problems associated with the operation of the CVS as a system, including consistency, potency and coverage.
- Issues related to people and individual performance or attitudes.

Can Community Visitors play a role in safeguarding vulnerable NDIS participants?

The Review found that CVS do have a role to play in safeguarding vulnerable NDIS participants. This role complements and strengthens the protections offered by the COAG-agreed NDIS Quality and Safeguarding Framework (NDIS Framework), including elements enacted by the NDIS Commission. CVS should be reflected within this Framework as a contributor. They provide valuable intelligence about the experience of people with disability, which would be enhanced by nationally consistent reporting arrangements. For this to happen the key functions and interface with the NDIS Commission need to be defined. There are important areas of overlap relating to complaints, restrictive practices and preventative visiting.

The Review observed that there are strong arguments that the protections offered by the NDIS Framework could be enhanced by the inclusion of Community Visitors to disability services as a function within the NDIS Commission. The rationale includes:

- Strong internal links with key areas of risk (such as restrictive practices) which could facilitate the dissemination of information and expertise.
- Direct flows of information from local sites to the NDIS Commission and from the NDIS Commission should there be trends/patterns of concern that need investigation.
- The simplicity offered by a single national scheme for providers, NDIS participants and members of the public.
- The ability to set a common philosophy of practice, standards and follow through. Driving national consistency of approaches to safeguarding requires investment and focus which may not be achieved if commitment is variable across jurisdictions.

However there are also important reasons why states and territories should maintain an independent oversight function for disability services. The rationale includes:

- NDIS-funded services are only one part of the life of a person with disability. Safeguarding needs an holistic approach within which community visiting should operate.
- The basic needs of health care and housing/tenancies are significant and are areas where protections are needed, and people with disability are at risk. Complaints bodies for these areas (health and housing) are state responsibilities. Access to suitable housing is one of the most critical challenges facing people with disability, in particular people with complex disabilities.

- There is a significant nexus which currently exists between Community Visitors for disability services and other community visitor subjects, especially mental health services which are state-based. All jurisdictions have community visiting for mental health facilities; many of these are within current CVS.
- Adult protection legislation and supporting mechanisms, if introduced, will be state and territory-led, as will the Optional Protocol to the Convention against Torture (OPCAT) reporting frameworks contributing to the National Preventative Mechanism (NPM).
- Linking CVS with the human rights-based leadership of Public Advocates and similar roles demonstrates the commitment of the state or territory to the safety of its most vulnerable citizens.

WestWood Spice has concluded that the contribution of CVS should be formally recognised and included within the NDIS Framework, delivered through the state and territory framework in the short to medium term. The Review describes some of the challenges faced by states and territories transitioning to the NDIS. The establishment of the NDIS Commission and its increasing footprint nationally will assist in providing clarity in areas where there has been uncertainty. In the meantime however the NDIS Framework is untested. There is an urgent and important need to maintain and enhance understanding of the experience of vulnerable NDIS participants within the evolving service system.

Given the significant new safeguards being introduced, including mandatory reporting, worker screening and behaviour supports and expertise, a future review of CVS is recommended. This should be timed for when there has been an opportunity to see how the NDIS Framework is impacting on the problems of violence, exploitation and neglect and used to identify any implications for further development of CVS. It could be included within the broader review of the NDIS Framework due in 2021-22.

A risk of this approach rather than a national scheme is variable commitment and inconsistency which could impact on NDIS participants and providers. Recommendations (4 and 5 below) that CVS collaborate to achieve greater consistency and alignment of approaches address this risk in part.

Complexity in safeguarding also relates to the intersection of disability with other systems. Recent Australian work responding to elder abuse has flagged the need for more holistic approaches to the safeguarding of at-risk adults, balancing the dignity and autonomy every adult is entitled to whilst preventing and protecting the most vulnerable. The portfolios of the majority of the current CVS that already visit people in mental health and other types of facilities would lend itself to this approach.

List of findings

CVS provide local, independent support to vulnerable NDIS participants by:

- Upholding an individual's human rights and ensuring service provision is appropriate in order to prevent violence, abuse and exploitation.
- Supporting appropriate decision making reflecting the wishes of individuals.
- Facilitating local capacity building to achieve resolution of issues in services at the earliest possible stage.
- Adding to regulatory intelligence on services and systemic issues to the state or territory as well as to the NDIS Commission.

In the long term, there appear to be strong reasons to align community visiting of people with disability within a broader adult protection paradigm encompassing safeguarding in mental health institutions and other facilities. States and territories may wish to consider how different visiting schemes might work more closely together and share information as a first step, particularly where people with disability are users of more than one system.

List of recommendations

1. That CVS for disability, while having a broader scope than the NDIS, have a contribution to make to the NDIS Quality and Safeguarding Framework and that the contribution of CVS should be formally recognised within the NDIS Framework.
2. That the role of Community Visitors be provided by state and territory-based schemes where they exist.
3. That Northern Territory, Western Australia and Tasmania may wish to consider the establishment of a CVS as described in the findings where these supports are not provided through other state or territory-based systems.
4. To support CVS's interface with the NDIS Commission, the following matters should be agreed between the NDIS Commission and states and territories:
    a. Authority of Community Visitors to enter the premises of NDIS providers.
    b. Data and information sharing.
    c. Compulsory reporting to the NDIS Commission on alleged reportable incidents and failure to adhere to incident management processes.
    d. Reporting on patterns of concern to the NDIS Commission and state/territory agencies.
    e. Role of CVS in relation to restrictive practices monitoring and reporting.

5. In the medium term, Commonwealth and states and territories should work towards national consistency around key aspects of CVS including:
    a. Reporting
    b. Standards for review (and alignment with practice standards)
    c. Scope
    d. Interface with NDIS Commission to define minimum consistency necessary
    e. Any role within the OPCAT NPM.
6. CVS are working in an evolving context, and will benefit from being included in the broader Quality and Safeguarding Framework review due in 2021-22.

Context of the Review

> *The committee is convinced that violence, abuse and neglect against people with disability is widespread and is occurring across all Australian communities.*
>
> *At the heart of this mistreatment are questions as to how our society views people with disability.*
>
> *The breadth of evidence provided on the range of violence, abuse and neglect of people with disability is highly disturbing and cannot be ignored.*
>
> *The committee notes with great concern, the lack of reliable and consistent data on violence, abuse and neglect of people with disability, and the complete lack of data on the outcomes of reporting and investigations.*
>
> **Australian Senate Community Affairs Reference Committee, Nov 2015, p63[4]**

The National Disability Strategy 2010-2020 sets out a clear policy direction for people with disability to be safe from violence, exploitation and neglect. The aim of this Review is to establish the role, if any, of CVS as a safeguarding mechanism for people with disability within the new landscape created by the NDIS. This Review addresses two questions:

1. In light of the NDIS Framework, and the functions of the NDIS Commission in particular, can Community Visitors, as independent bodies, play a role in terms of safeguarding vulnerable NDIS participants? If yes, what role can they play?
2. If they can play a role, what are the appropriate functions and powers needed for Community Visitors to operate within the NDIS and how should Community Visitors best interface with the NDIS Commission?

Abuse and neglect

The full extent of abuse and neglect of people with disability in Australia is unknown, however there is wide acknowledgement that it is a significant problem, as well as being under-reported.[5] This is reflected in the many recent inquiries and reports relevant to safeguarding including:

- Australian Senate Community Affairs Reference Committee (2015) *Report on the inquiry into abuse and neglect against people with disability in institutional and residential settings, including the gender and age-related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, as well as culturally and linguistically diverse people with disability*.
- Victorian Ombudsman's (2015) *Reporting and Investigation of Allegations of Abuse in the Disability Sector.*
- Victorian Parliamentary Inquiry into Abuse in Disability Services (May 2016) and strategy: *Dignity, respect and safer services, Victoria's disability abuse prevention strategy,* (March 2018).
- *Abuse and neglect of vulnerable adults in New South Wales – the need for action A Special Report to Parliament* by the NSW Ombudsman (November 2018).
- Australian Human Rights Commission (AHRC) *A Future without Violence* report 2018.
- Royal Commission into Institutional Responses to Child Sexual Abuse (2017).

The Australian Bureau of Statistics (ABS) 2016-17 Personal Safety Survey showed that people with a disability or long term health condition were more likely to have experienced physical violence and sexual harassment than people without disability or long term health conditions.[6] However the scope of the survey was people living in private dwellings so the experience of people in supported accommodation or with profound communication disability is excluded.

Obligations

The Australian Government and all states and territories have obligations to ensure and protect the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.[7] Australia is a party to international treaties that guide the positive action required to uphold human rights including the right to be free from exploitation, violence and abuse. The treaties include:

- United Nations' Convention on the Rights of Persons with Disabilities (CRPD). Article 16 (3) places an obligation on States Parties for preventative independent monitoring.
- International Covenant on Civil and Political Rights.
- International Covenant on Economic, Social and Cultural Rights.
- Convention on the Elimination of All Forms of Discrimination against Women.
- International Convention on the Elimination of All Forms of Racial Discrimination.

States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

CRPD Article 16(1)

In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Australia ratified the OPCAT in 2017. The Office of the Commonwealth Ombudsman is coordinating work to map elements of National Preventative Mechanisms (NPM), including independent inspection of places where people are deprived of liberty. OPCAT encourages broad definition of places of detention and includes mental health and forensic disability services.

Australian governments have developed policy and legal frameworks to guide planning. These include:

- National Disability Strategy 2010-2020.
- National Plan to Reduce Violence Against Women and their Children 2010-2022, in particular the Third Action Plan which has an area of focus on women with disability.
- National Principles for Child Safe Organisations (drafted 2018).
- National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector (2014).

State and territory criminal codes do address matters of violence against people with disability but vary in scope and definitions; for example around matters such as forced sterilisation, or the inclusion of paid carers working in institutions within family violence legislation.

Safeguarding

The disability services sector is undergoing significant reform through the implementation of the NDIS in Australia. The NDIA is responsible for implementation and administration of the NDIS. Regulation is the responsibility of the NDIS Commission.

Two years ago, the COAG agreed the NDIS Framework. This describes a broad model of safeguarding within which the newly established NDIS Commission sits as regulator. Early priorities have been the establishment of:

- An independent complaints handling system.
- Nationally consistent standards for the registration of service providers, including reporting of serious incidents.
- Enforcing an NDIS code of conduct.
- Nationally consistent risk-based worker screening.
- Restrictive practice oversight and clinical leadership in positive behaviour support with the aim of reducing and eliminating restrictive practices in the NDIS.[8]

The NDIS Commission has wide powers of investigation and enforcement under an amendment to the *National Disability Insurance Scheme Act 2013* the *National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Act 2017*, passed by the Australian Parliament on 4 December 2017.

States and territories maintain some responsibilities related to disability services such as worker screening and the authorisation of restrictive practices, as well as maintaining oversight during transition to the NDIS of matters relating to service quality and complaints, until the NDIS Commission launches in the jurisdiction.

NDIS Quality and Safeguarding Framework

The NDIS Framework consists of measures targeted at NDIS participants, the workforce and providers within three domains: developmental, preventative and corrective.

The developmental domain focuses on strengthening capability; the preventative domain is intended to prevent harm and ensure delivery of quality services; and the corrective domain is about solving problems, enabling improvements and providing oversight.

This Review explores the potential role of CVS in the context of the NDIS Framework, and makes recommendations within the overall commitment made by all governments to building a nationally consistent and responsive quality and safeguarding system that supports participant choice and control in the NDIS market.

Community Visitor Schemes – overview

> *And be it enacted That [sic] it shall and may be lawful for the said Governor to nominate and appoint some fit and proper person or persons not exceeding five in number to be the visitors of each lunatic asylum within the said Colony … and some one of such visitors so appointed shall be required to visit such lunatic asylum at least once in every week unless prevented by illness or other sufficient cause and shall from time to time make such reports to the Colonial Secretary as may be required by order of the said Governor.*
>
> **Dangerous Lunatics Act NSW 1843**

Origins

Community visiting has been in existence in Australia since 1843. By 1898 an inspector of asylums had authority across a wide range of matters including the use of restraint, nutrition, staffing levels and appointment of official visitors from the community.[9]

Key features retained by modern schemes are the oversight of institutions by independent members of the community, appointed by statute, with wide powers to visit, inspect and report on the experience of residents.

Independent visiting as a key tool in quality and safeguarding has precedents in other settings. It is at the heart of the NPM required by the OPCAT.

Six current schemes

There are currently six CVS for disability services in Australia, one in each state and territory except Western Australia and Tasmania. Each scheme operates differently and separately from the others in scope, scale and design.

Community Visitors hold their roles as statutory appointees under varying legislation. Appointments are made by the State Governor, Public Guardian in Queensland or relevant Minister, usually for three-year terms. In South Australia and Victoria there are over 450 volunteer Community Visitors; in other jurisdictions it is a paid role usually held on a casual basis.

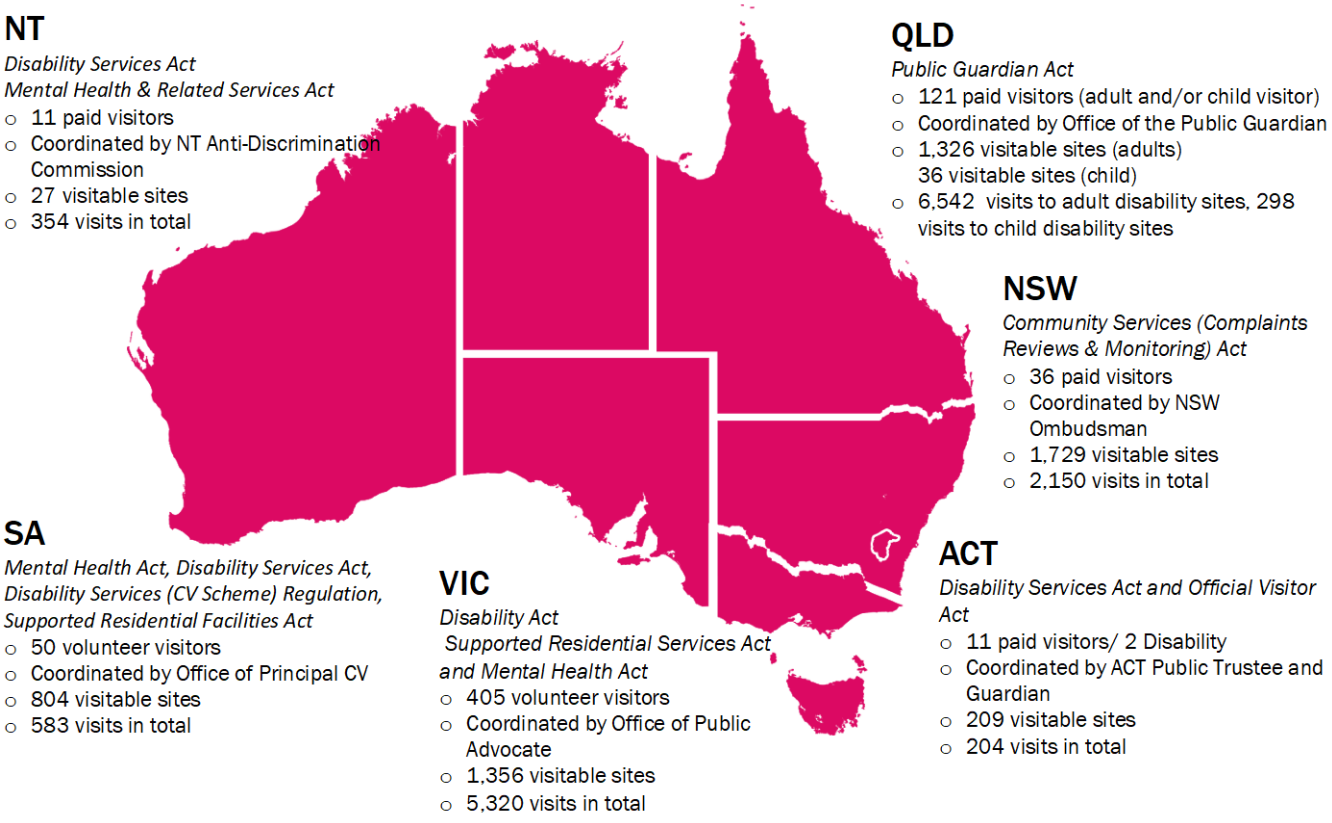
Visitors work independently within frameworks established with an auspicing and co-ordinating department. Each arrangement is different. They work closely with other agencies and complaint handling bodies. Some schemes have regional structures supporting state-wide coverage. In New South Wales visiting for disability services is auspiced by the Office of the New South Wales Ombudsman and is a standalone scheme. The Northern Territory CVS visits a small number of people living in forensic disability accommodation. All other schemes cover additional sites such as mental health institutions, although individual Visitors may specialise in disability. The CVS in Queensland is within the Office of the Public Guardian and visits both children and adults.

Over 12,000 visits were made to adult disability services in 2016-17. Annual reports from most schemes do not record how many individuals are seen, but rather the number of visits to visitable places. Queensland is an exception, reporting visits to 6,542 adults in 2016-17.

All of the visits relate to accommodation services. In addition the South Australian scheme scope includes day options programs.

The map below provides an overview drawing on 2016-17 Annual Reports to each CVS.

Figure 1: Overview of CVS



Tasmania and Western Australia

Tasmania

The Tasmanian Ombudsman, with the Health Complaints Commissioner, administers and provides support for Mental Health Official Visitors and Prison Official Visitors. Under the *Tasmanian Disability Services Act 2011* Authorised Officers are appointed and have the power to enter premises unannounced, take copies of, or remove records, and speak to people with disability if there is any concern.

The *Tasmanian Disability Services Act 2011* places a duty of care on service providers with the requirement, that people in their care are free from abuse and neglect. Allegations of abuse may be reported directly by the alleged victim (through the National Abuse Hotline on 1800 880 052), or to Disability and Community Services. Departmentally-funded services operate within a quality and safety framework, performance monitoring and three-yearly reviews.

Department of Communities Tasmania provides funding to three advocacy organisations to assist people to raise issues.

Western Australia

In Western Australia, a Mental Health Advocacy Service (MHAS) with powers under the *Western Australia Mental Health Act 2014* was established in 2015. The MHAS is an independent body that provides mental health advocacy services, and rights protection functions, to "identified persons".

There is no official visiting of disability services. Providers of disability services are required to have a consumer grievances and complaints procedure, in accordance with the *Disability Services Act 1993* and National Standards for Disability Services Standard 4. Further, concerns and complaints may be raised with the Department of Communities Consumer Liaison Service or the Health and Disability Services Complaints Office (HaDSCO).

The Department of Communities Consumer Liaison Service provides information, resolves issues and manages complaints relating to service providers funded by the department. Complainants are encouraged to raise their concerns directly with their local service in the first instance. If concerns remain unresolved or are more complex, then the matter is referred to the Consumer Liaison Officer, whose functions include:

- Supporting effective communication with providers.
- Supporting providers with the development of their complaints policy.
- Actively managing the relationship between the department and external complaint mechanisms, and supporting referrals to external complaint mechanisms.
- Developing, maintaining and ensuring access to appropriate information to support consumer and staff awareness of complaints rights, options and procedures.
- Developing and implementing awareness training.

HaDSCO is an independent statutory authority offering a systems improvement and impartial resolution service for complaints relating to health, disability and mental health services in Western Australia and the Indian Ocean Territories. It reports to the Minister for Health and Mental Health. Disability is a small element of HaDSCO's portfolio, representing three percent of complaints received in 2017-18. HaDSCO also reviews complaints data from the main government and NGO providers in the state.

Other schemes

Australia has a national CVS in the aged care sector. However, its purpose is different from that of the disability schemes, targeting the reduction of social isolation of older Australians. Founded in 1992, the scheme offers three types of visit: one-on-one or group visits in residential care settings and one-on-one visits to consumers of home care packages. A "digital community visitor" is also being tested to connect with people in regional areas. The Department of Health provided $16.9 million total funding (excluding GST) in 2015-16, which provided for over 11,000 visitor places.[10] The scheme auspices 212 non-government organisations to recruit volunteer visitors.

There are also a number of local NGO schemes visiting people with disability. For example the Red Cross offers social connection programs in all jurisdictions except the Northern Territory.[11]

Table 1: Community Visitor Schemes – states and territories

Data: 2016-17 Annual reports

	ACT	NSW	NT	QLD	SA	VIC
Legislation covering Scheme	▪ *Official Visitor Act 2012 (Amended Dec 2018)* ▪ *Disability Services Act 1991* ▪ *Mental Health Act 2015* ▪ *Housing Assistance Act 2007* ▪ *Children and Young People Act 2008* ▪ *Corrections Management Act 2007*	▪ *Community Services (Complaints Reviews & Monitoring) Act 1993*	▪ *Disability Services Act 2012* ▪ *Mental Health & Related Services Act 1998*	▪ *Public Guardian Act 2014* ▪ *Guardianship and Administration Act 2000* ▪ *Public Guardian Regulation 2014*	▪ *Mental Health Act 2009* ▪ *Disability Services Act 1993* ▪ *Disability Services (CV Scheme) Regulation 2013* ▪ *Supported Residential Facilities Act 1992*	▪ *Disability Act 2006* ▪ *Supported Residential Services (Private Proprietors) Act 2010* ▪ *Mental Health Act 2014*

	ACT	NSW	NT	QLD	SA	VIC
Scope	▪ Accommodation serviced by specialist disability providers ▪ Aged care facilities where people with disability < 65 live ▪ Mental health institutions ▪ Homelessness services ▪ Out of home care residential and youth detention ▪ Adult corrections centre	▪ Disability accommodation ▪ Residential OOHC ▪ Assisted boarding houses	▪ Mental health in-patient units ▪ Specialist disability (involuntary facilities incl Secure Care Facility & Appropriate Places ▪ Alcohol Mandatory Treatment facilities (jurisdiction withdrawn) No statutory obligation to visit non-specialist disability residential facilities.	CV (Adults) [12]: ▪ Authorised mental health services ▪ Community care units ▪ Government-funded forensic disability facilities ▪ Disability services and locations where people are receiving NDIS support (other than private dwellings) ▪ Level 3 accredited private residential services (akin to assisted boarding houses).	Disability: ▪ Specialist Disability accommodation ▪ Supported Independent Living (excluding private homes) ▪ Short-term accommodation – respite care Day Options programs Mental Health: ▪ Treatment centres ▪ Community mental health facilities ▪ Hospital emergency departments	▪ Supported residential services ▪ Disability services – all residential services ▪ Mental Health

	ACT	NSW	NT	QLD	SA	VIC
				CV (Child): ▪ OOHC residential including foster and kinship care ▪ Detention centres ▪ 17 year olds in corrective service facilities ▪ Authorised mental health services ▪ Disability funded facilities including respite		
Total # Visitors	11 Visitors (1 FTE for Disability Services)	36 Visitors (at 1 July 2016)	1 x Principal CV 3 CV Panel members 7 x CVs	121 Visitors (52% are dual Visitors to both adult and child sites)	52 Visitors	405 Visitors
Coordination	ACT Public Trustee and Guardian	By NSW Ombudsman staff 2.4 EFT staff (1.8 funded by OCV scheme)	NT Anti-Discrimination Commission 6 EFT	Office of the Public Guardian 25 EFT staff	Principal Community Visitor has 8 EFT staff	Office of Public Advocate 10.5 EFT staff

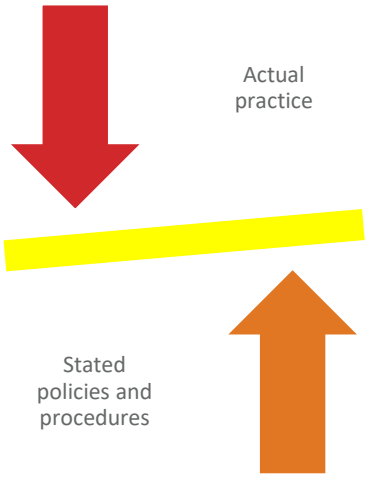
	ACT	NSW	NT	QLD	SA	VIC
Visitable sites	209 sites in total for Disability Services: ▪ 121 disability services ▪ 31 respite facilities ▪ 57 people with disability in aged care services	1,729 in total: ▪ 1,429 disability services ▪ 281 residential OOHC (Children and Young People) ▪ 19 assisted boarding houses	27 sites in total: ▪ 2 mental health facilities ▪ 13 mental health teams ▪ 1 Secure Care Facility ▪ 6 Appropriate Places ▪ 3 Alcohol Assessment facilities ▪ 2 Alcohol Treatment facilities	1,326 sites in total as at 30 June 2017: ▪ 1,215 disability ▪ 71 mental health ▪ 40 supported accommodation *36 disability sites visited for children and young people.*	804 sites in total: ▪ 696 disability ▪ 24 SRFs ▪ 72 day options 12 mental health	1,356 sites in total: ▪ 1,110 disability group homes ▪ 130 SRSs ▪ 141 mental health units
# visits –	204 visits to people with disability: ▪ 180 visits to group homes ▪ 15 visits to aged care services ▪ 6 visits to respite services ▪ 3 resident group meetings	▪ 2,150 to disability ▪ 960 to residential OOHC ▪ 45 to assisted boarding houses	354 visits: ▪ 171 to AMT ▪ 150 mental health ▪ 33 disability ▪ 16 to secure care ▪ 13 to appropriate places ▪ 4 to other services	1,305 sites were visited in 2016-17 ▪ 5,223 visits to 6,542 adults at these sites *The CVS program includes visits to 8,025 children and young people in care and at prescribed sites. 298 visits were made to child disability services sites*	583 visits to disability services: ▪ 453 to supported accommodation ▪ 41 to SRFs ▪ 89 to day options	▪ 2,903 to disability ▪ 836 to SRSs ▪ 1,413 to mental health units

What do Community Visitor Schemes achieve?

> *There is a range of evidence which suggests people with disability are more vulnerable to violence, exploitation and neglect than others in the community. People with disability fare worse in institutional contexts where violence may be more common. People with disability are more likely to be victims of crime and there are also indications that women face increased risk.*
>
> National Disability Strategy 2010-2020[13]

The section discusses the contribution of CVS currently, highlighting the strengths and limitations that have been identified as they currently operate in safeguarding people with disability from individual, service and community perspectives.

Figure 2: Gap addressed by CVS



The feedback from stakeholders about community visiting outcomes for people with disability was consistently positive in all jurisdictions and across the different consultation methods. The Review methods included face-to-face meetings and interviews in every capital city, as well as telephone interviews and an online survey. WestWood Spice spoke with 195 people to inform this report. Appendices 1 and 2 outline the methods used and lists participating people and organisations. Stakeholders consulted included government and non-government service providers and funders as well as people with disability and advocacy groups.[14]

The broad purpose common to all CVS is to visit people with disability and independently determine if their human rights are being met by the service systems they rely on. The importance of doing this with independence from the service system and governments' political imperatives was emphasised throughout the consultation informing the Review. Stakeholders summarised the distinctive role of CVS as ensuring there was no gap between what should be happening in a service (its practice standards) and what actually happens. When there is a gap, the CVS has the ability to listen, observe and report.

This is consistent with feedback provided to other consultation processes, including the AHRC investigation of safeguarding,[15] the current Senate Inquiry into aged care quality,[16] the Australian Law Reform Commission's work on Elder Abuse,[17] the New South Wales Government's examination of Protections for Residents of Long-term Supported Group accommodation,[18] and the Norther Territory NDS "Zero Tolerance" forum evaluation.[19]

One of the challenges for Community Visitors is that of maintaining clear boundaries and not acting outside their legislative remit, including as case managers, or auditors. This is particularly difficult where CVS are operating in regions where there are very few other advocacy supports for people with disability and limited referral pathways, or where the disability services market is emerging. In the Northern Territory for example it was reported that there was growing understanding of restrictive practices and that Community Visitors played an educative and supportive role alongside the Northern Territory Government Office of Disability, NDS, the NDIS Commission and other stakeholders. On occasion the Northern Territory CVS plays a mediation role between NDIS participants/families and services. Many consultations emphasised the importance of working alongside service providers as a resource rather than criticising from a "high horse".

Individuals

> *After 40 years' experience of not being listened hard to it's hard to transition to self-advocate. It takes five years for people with cognitive impairment to start to say what they want and know they will be taken seriously.*
>
> Interviewee

Feedback from people with disability, families and advocates to the Review highlighted the challenge of adapting to choice and control. This is consistent with inputs to other consultations.[20]

At their best, CVS achieve important outcomes for people with disability in services, encouraging them to express their views, listening, building capacity in asserting rights or linking with supported decision-making processes and advocates. Visiting in person and talking assists people with disability to build confidence and experience in expressing their views and needs. By tracking service responses to issues CVS can also build demonstrate that is worth complaining, as well as being safe to do so.

Some CVS invite families to talk with them as part of the visiting process and promote phone lines to raise issues or ask for a visit.

Some people with disability may be particularly vulnerable to abuse and neglect because of the nature of their impairment, limited communication, reliance on paid workers for personal care or their accommodation situation.[21] It may be very difficult for these individuals to self-advocate or recognise treatment as abusive. For these individuals, an independent and proactive oversight mechanism that does not need to be triggered by a complaint is important.

The availability of suitable accommodation, especially for people with complex needs is raised in many CVS annual reports. Resident compatibility is an area of concern in many jurisdictions. Community Visitors in New South Wales played a key role highlighting violence between residents as a form of abuse and systemic issue.

The Review learnt that in many jurisdictions the capacity of Public Guardians' teams to visit people under their care is extremely limited, and the role of CVS with this cohort of people with disability was highly valued.

- *Residents tend to be more "open" with a Community Visitor.*
- *Valuable safeguarding process for vulnerable people through being able to see and hear clients, evaluate the physical environment in which people are living and understand how clients and staff interact especially those with no family or guardian in place.*

Survey quotes

Disability services

Services across Australia who took part in the Review were overwhelmingly in favour of community visiting. Some CVS anticipated negative service provider reactions as the schemes hold services to account. However, the feedback from services is that the CVS role is vital. Visitors picked up issues that senior managers were unaware of, and also reinforced and shared good practices. In the Northern Territory participants in the NDS Zero Tolerance Project strongly advocated for community visiting to be introduced to services.[22] In South Australia a provider reported that their board now had a protocol to review all feedback from Community Visitors.

People with disability need the staff teams who work with them, sometimes 24 hours a day 7 days a week, to be their most important safeguard. Community Visitors play a role with frontline staff in services particularly where staff may be concerned about an issue for a client but are reluctant to raise with management or have not been listened to.

Capacity building in the sector

CVS also play a capacity building role. Feedback indicated they are able to identify good practice and cross-pollinate ideas across services. One example was the use of technology to re-unite a resident with family in a regional area. Service quality can suffer when norms are not challenged, including low expectations of people with disability.

- *Greatly assists in the continuous improvement process of an organisation's processes, documentation and staffing.*
- *Community Visitors who work across sectors (e.g. disability, aged care, mental health) see a range of solutions to similar/same issues.*

Survey quotes

Local resolution

The vast majority of matters raised by Community Visitors are resolved locally by the services and are not escalated. In New South Wales with over 4,700 new issues reported in 2016-17, just 50 were escalated to the Ombudsman's Complaints Team and 19 to the Reportable Incidents Division.

Examples provided included basic equipment that people with disability could use independently and with dignity. A former worker in a group home commented that management had not listened to their request for an accessible lever tap-handle until a Community Visitor became involved. Other examples include adjusting bench tops or purchasing a washing machine so that residents could contribute to household routines.

Community Visitors also play a role in assisting local resolution of issues. Skills in providing constructive feedback are highly valued and assist in improving service quality. By asking questions on site they are already helping staff or residents think through problems and solutions. They can also bring an independent and fresh pair of eyes to issues. The possibility of a visit was viewed in some jurisdictions as preventative and encouraging good practice, while one service provider interviewed noted that they requested of the CVS that all visits be unannounced to their sites as part of their quality strategy.

Each scheme is able to refer complaints to appropriate agencies or use the coordinating body to consider if matters should be escalated via the Principal Visitor or equivalent.

The survey invited views on the outcomes achieved by visiting and typical comments are listed below:

- *Powerful in acknowledging good practice in a home – good for staff morale, always constructive feedback.*
- *Improvements in service quality can occur quickly as Community Visitors develop effective working relationships with key staff.*
- *Unannounced as well as announced visits are very important to the objectivity of the visiting process.*

Survey quotes

Examples of issues raised

Some schemes produce a detailed review of the year providing analysis of the types of issues raised and the extent to which they are resolved. Data from the Queensland and New South Wales Annual Reports is included here to illustrate the range and main groupings of matters raised by Visitors on behalf of residents. Table 2 also demonstrates the difficulty in providing an overview of the situation of people with disability in Australia, as none of the CVS use matching reporting categories and definitions.

Issues and visits in New South Wales CVS 2016-17

The *Community Visitors Annual Report* (2016-17) published by the New South Wales Ombudsman reports 78 percent of visitable services were prioritised for visiting on a regular basis in 2016-17. OCVs were allocated to 1,115 disability supported accommodation services, 223 OOHC services and 18 assisted boarding houses.

Over the course of the year 4,714 issues were logged of which 62 percent were resolved. About 18 percent of the issues were not resolved and were ongoing for monitoring/resolution into the following year.

In New South Wales the types of issues raised on behalf of residents were:

- Individual resident development – 1,068 issues. Main areas were plans not developed or reviewed in line with legislation, assessments of need not conducted.
- Safe and supportive environment – 731 issues relating to the shared needs and compatibility of residents and incident management.
- Health/personal care – 599 issues.
- Accommodation environment – 504 issues for example matters relating to furniture heating and cooling or premises and grounds that were not maintained in a safe, clean and hygienic condition and/or were not kept free of vermin and pests.
- Social independence of residents and participation in community life – 297 issues.

The table below illustrates the types of issues raised in New South Wales and those reported in the Queensland *Office of the Public Guardian Annual Report* (2016-17).

Table 2: Queensland & New South Wales – main issue categories

Issue Category (Adult)	2016-17	Issue Category (Adult)	2016-17
Queensland		**New South Wales**	
Wellbeing	474	Individual development	1068
Support	372	Safe and Supportive environment	731
Accommodation	325	Health/personal care`	599
Health	214	Accommodation environment	504
Least restrictive services	205	Social independence	297
Treatment	130		
Assessment	120		

Community – systemic safeguards

CVS all report annually to Parliament or Legislative Assembly, as well as providing immediate feedback to services and coordinating agencies. Reports include systemic advocacy as well as highlighting individual people and their situations.

Every consultation forum offered "eyes and ears of the Minister" as an important function of CVS. The fundamental contribution is through independent proactive oversight, witnessing and reporting any gap between the expected standard of disability services and actual practice.

The ability to make unannounced visits has a strong preventative element, and avoids the best behaviour scenario of a planned audit. It also provides the opportunity for early intervention – concerns can be addressed immediately and at source with the relevant teams rather than escalating into abuse or neglect.

CVS are also able to take a multi-agency approach to asserting the rights of a person with disability. A problem may relate to disability accommodation but could also relate to interaction with the mental health system or the transport system.

Through the process of visiting multiple services, CVS gain an overview of systemic issues that can be flagged to governments. The Review heard examples of widespread skills shortages and inadequate approaches to nutrition being raised in annual reports. In New South Wales the acknowledgement of the issue of "resident to resident" abuse was initially recognised through the work of Community Visitors.

CVS experience also influences practice improvement. For example in Victoria the *Interagency Guideline for Addressing Violence, Neglect and Abuse* (IGUANA) were developed by the OPA Victoria in collaboration with other agencies.

The current Senate Inquiry into the *Effectiveness of the Aged Care Quality Assessment and Accreditation Framework for Protecting Residents from Abuse and Poor Practices, and Ensuring Proper Clinical and Medical Care Standards are Maintained and Practised* has unpacked the learnings from the Oakden Older Persons Mental Health Facility in South Australia.[23] The important role played by community visiting is highlighted, both revealing abuse and neglect and persisting in raising it at the highest level until action was taken.

Does the Community Visitor role need to change?

Does the Community Visitor role need to change, in what ways and over what timeframe?

Feedback to the Review suggested that community visiting is widely supported and highly regarded in the jurisdictions in which it operates, nevertheless the advent of the NDIS and the NDIS Framework means changes to current arrangements are required.

The Review highlighted issues that are:

- Impacting the current effectiveness of CVS.
- Driven by the new requirements of the NDIS.

Factors impacting on the effectiveness of schemes

Effectiveness is a measure of the extent to which overall objectives are accomplished and desired results achieved. Feedback on the CVS from stakeholders was consistently very positive in all states and territories. However it is hard to measure the impact of such schemes. There is no data on abuse which has been prevented or good practice which has been encouraged, and there is no general evaluative data available to draw on for this Review.

Issues raised as impacting effectiveness of CVS relate to three broad areas: the context within which schemes operate, problems with the CVS system, and issues related to people and individual performance.

Context

The NDIS Commission is newly established and is making progress in setting nationally consistent quality and safeguarding arrangements for the registration standards and conduct of NDIS providers, an independent complaints system, improvements to worker screening, new provisions for monitoring and overseeing restrictive practices and investigation and enforcement.

Contextual factors impacting on the effectiveness of schemes currently include:

1. **NDIS changes to the service landscape.** The NDIS is encouraging new providers and new models of disability services as well as increased separation of tenancy (housing provider) from independent living support when that is preferred by an NDIS participant. Under current legislation who can be visited by Community Visitors is changing in some jurisdictions. Whereas governments have been able to mandate

powers of entry into state-funded services, this will not be the case in the future. There will be many more accommodation types and actual locations, as well as potentially multiple providers for each individual. There is also the question of service provision taking place in the family home. The very nature and appropriateness of community visiting needs to be examined in this context.

2. **Control and risk.** Individually planned and delivered service provision under the control of the person with disability is the foundation of the NDIS. This individual focus would ideally be reflected in safeguarding arrangements alongside place based and systemic protections - which include Community Visitors. Any protective intervention needs to balance maintaining the privacy, dignity and autonomy of an adult with possible risk. Whilst in the short term, the extent of actual change, choice and control in the emerging market-based system has been questioned.[24] The new approach will mean that in the longer term safeguarding agencies may only be able to identify vulnerable NDIS participants and people who need protection when certain factors are evident rather than using their living situation as a proxy-indicator for risk.

> *People with disability should be supported to exercise choice, including in relation to taking reasonable risks, in the pursuit of their goals and the planning and delivery of their supports.* (section 4(4))
>
> *One of the NDIA's functions is to ensure that a reasonable balance is achieved between safety and the right of participants to choose to participate in activities involving risk.*
>
> (section 118(1)(a)(v))
>
> NDIS Operational Guideline 8.4

3. **Thin markets.** Community Visitors may recognise significant problems in services but know that there is no other provider available for a person with disability to use. The market-driven framework offering choice and control to purchasers only works where there are alternatives.
4. **Small communities, rural and remote areas.** These are likely to rely on small numbers of workers who may well be known to a Visitor. Maintaining relationships whilst undertaking an independent review requires careful efforts. It was reported there is a real risk providers will say it is all too hard and walk away. This problem was articulated strongly in the Northern Territory, and voiced in other jurisdictions.
5. **Changes to safety net accommodation.** Arrangements whereby governments were accommodation providers of last resort are changing across the country. Concern was raised that with no provider of last resort and a situation where people are housed in emergency or temporary accommodation, the Community Visitors have no jurisdiction to check on well-being.
6. **Loss of specialist disability teams in government**. Whereas there was once a requirement for expertise in disability services within government, that is now being dispersed across mainstream areas (such as health and community services). This makes access to these supports harder to tap into for both the public and Community Visitors.

7. **Workforce changes.** Staff turnover and the casualisation of the workforce has been raised as a major issue by NDS. In the first quarter of 2018 the proportion of casual staff increased to almost half of the disability workforce.[25] The opportunity for Visitors to build positive "critical friend" relationships with staff which was a feature of some schemes is becoming limited.
8. **Risk assessment.** The NDIA Support Needs Assessment conversation includes an assessment of risk. Given the private and personal nature of the conversation it is unlikely data could be shared (for example with the NDIS Commission) unless on an aggregated basis.[26]
9. **Increasing uncertainty.** The future of individual advocacy and CVS funding has been uncertain over the past two years in most jurisdictions, as has the status of some schemes given the transfer of responsibilities from state or territory based government departments, as well as legislation that mandates schemes, to the NDIS Commission.

System

Factors associated with how CVS operate that impact on effectiveness include consistency, potency and coverage. The lack of evaluation of outcomes limits the degree to which individual scheme models can be assessed, and the design of any future or revised models needs to be exploratory in nature.

1. **Consistency**. The CVS do not operate consistently nationally, and this poses problems:
    a. To obtain, collate and use information generated by the schemes about the experience of people with disability.
    b. For national providers operating in multiple jurisdictions and wanting uniformity of approach to service quality.
    c. To achieve the COAG goal of a consistent safeguarding system.
2. **Potency.** Schemes need to be able to affect positive changes, and be seen to do that. This includes credibility at a local level when they are approached by people with disability or their families, as well as informing the community leadership of Public Advocates and others on disability issues. Frustration was expressed by people with disability and families when they had raised matters with Visitors but nothing changed. Responsibility to take action rests with others. Follow through processes are variable, and Community Visitors can work through complex escalation channels.
3. **Coverage.** The frequency of visiting varies across jurisdictions and this limits the impact of schemes. Some schemes are only able to visit once a year. Whilst this is effective as a spot check, and may assist as a preventative measure (when an unannounced visit remains a possibility at any time); Visitors are only able to report on what they see on that particular day, and have no opportunity to build relationships with residents or staff.

Some Community Visitors have been in a role for many years, or visit frequently and know the people they visit well. They notice changes in demeanour over time and have built skills communicating with people who are non-verbal. This is particularly important for people without family or other advocates, and a significant contribution in the context of a sector with high staff turnover and increasing casualisation of the workforce.

Table 3: Visits per site (average) based on 2016-17 annual reports

Jurisdiction	Visitable sites	Visits	Visits per site p.a.
ACT	209	204	0.98
NSW	1429	2150	1.50[1]
NT	11	33	3.00
QLD (Adult)	1305	5223	4.00
QLD (Child)	36	298	12
SA	792	583	0.74
VIC	1216	3820	3.14

Individual performance

1. **Performance management.** As with any scheme reliant on individuals, performance varies. This is a particularly acute issue for CVS given the nature of the statutory appointment and the co-ordinating rather than managing relationship of the teams they sit within.
2. **Visitor competencies.** These were highlighted by the Review, summarised as "Knowing what to look for". The CVS are addressing this with extensive training, mentoring and supervision as well as fine tuning recruitment processes. Visits need to be of a consistent quality using an independent human rights-based approach. Review feedback highlighted the importance of talking with people at the service when visiting and avoiding checklist-based approaches. Criticism included Visitors who did not follow up on issues raised previously or who were concerned with trivial matters and missed major problems. Cultural competence, access to interpreters when needed and cultural safety are also important.
3. **Attitudes and approach.** All jurisdictions highlighted the importance of Community Visitors avoiding behaving in a high handed manner. One interviewee reported a Visitor demanding access to a home when a person with intellectual disability with drop in support was on their own and had learned not to let strangers into their home.

[1] In NSW not all sites are allocated a visitor each year (approx. 30% are 'rested' based on information from OCVs and other intelligence) – in 2016/17, 1115 disability accommodation sites were allocated an OCV and 2150 visits were conducted (1.93 visits per site p.a).

It was considered particularly important to build the skills to avoid confrontational approaches. This was highlighted in relation to an Aboriginal Service provider in a remote area of the Northern Territory, where there are very few alternative providers for people with disability, The Review heard of the role of CVS extending to mediation in the interest of securing better outcomes for person with disability.

4. Confusion about the role in the wider community. The community visitor program for aged care services is widely available and focuses on befriending and addressing social isolation. Whilst both these strategies may have safeguarding outcomes, they are very different from the CVS role undertaken in the disability service system. Some CVS also reported low awareness in the community with regard to the nature of their work, and suspected people who could benefit did not know how to get in touch.

Can Community Visitors play a role in safeguarding vulnerable NDIS participants?

Can Community Visitors, as independent bodies, play a role in terms of safeguarding vulnerable NDIS Can participants? If yes, what role can they play?

The Review found that CVS should play a role in safeguarding vulnerable NDIS participants, working with the broad framing provided by the NDIA and the specific guidance of the NDIS Framework.

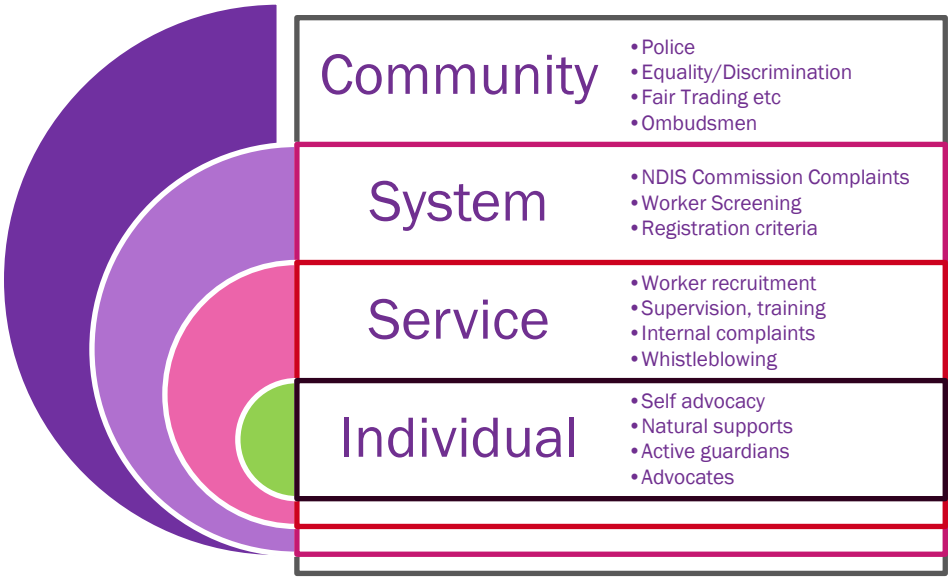
NDIA framing

The NDIA has a clearly stated intent of enabling people to have choice and control over their lives and recognises the need to build the capacity of individual NDIS participants to make decisions relating to their own safety. Some choices will have more risk associated with them than others.

This is reflected in a multifaceted safeguarding model, recognising strategies at four levels: individual, service, system and community. Community level safeguards are outside of the disability services system.

Vulnerable NDIS participants who are unable to access natural supports, are isolated or are limited in self-advocacy will be significantly reliant on the safeguarding strategies that are the responsibility of the service, system and community.

Figure 3: Safeguarding levels



Community Visitor Schemes are a means of **integrating the four levels** and can make a contribution to each:

Community – linking people with disability with mainstream complaints functions when needed, and contributing to systemic intelligence on issues. For example in the Northern Territory the CVS is monitoring the use of interpreters as a systemic issue and in Victoria the Public Advocate has published on the challenges faced by people with disability seeking accommodation.[27] CVS can escalate matters to other agencies as needed.

System – providing intelligence on systemic issues to the NDIS Commission, schemes should be reporting serious individual matters as complainants and contributing to the capacity building and preventative functions (outlined in Table 4 below).

Service – monitoring how services operate, talking with staff, contributing to ongoing improvements, providing an avenue for whistleblowing.

Individuals – listening, assisting individuals to develop skills and self-advocate through a proactive face-to-face role, raising matters on behalf of people with disability when needed.

NDIS Framework

The NDIS Framework has three components: Developmental, Preventative, and Corrective. Table 4 uses the NDIS Framework to suggest areas where CVS can play a role in safeguarding vulnerable NDIS participants.

Table 4: CVS components of the NDIS Quality and Safeguarding Framework

Underpinning foundations		
UN Convention on the Rights of Persons with Disabilities; National Disability Strategy 2010–2020; National Disability Insurance Scheme Act 2013		
Components		
Developmental: Building capability and support systems	**Preventative:** Preventing harm and promoting quality	**Corrective:** Responding if things go wrong
Individuals: supporting and empowering people with disability		
Providing participants information for decision-making CVS assist people to navigate the NDIS	**Safeguarding participants through planning, implementation and review processes** Having formal safeguards in the NDIS planning, implementation and review processes	**Responding to complaints** CVS assists people to use internal and external complaints mechanisms
Building participants' capability CVS listen to participants and build confidence to exercise choice and control	**Preventative Visiting** CVS visit people in services	**Responding to serious incidents** CVS can check if incidents have been appropriately recorded and reported, and escalate where necessary
Strengthening natural supports CVS involve families in conversations about service quality		
Links to Information, Linkages and Capacity building	*Links to supported and substitute decision-making (guardianship systems) and National Disability Advocacy Framework*	*Links to universal protections outside the NDIS (e.g. police, other regulatory and complaints systems)*
Workforce: promoting a safe and competent workforce		
Building a skilled and safe workforce CVS observes workforce behaviours in the context of the code of conduct, practice standards		**Monitoring worker conduct** CVS can flag concerns about individual workers
Providers: encouraging safe, innovative, high-quality support provision		
Building provider capacity and best practice CVS can observe different models and practices and highlight local or systemic issues	**Reducing restrictive practices** CVS checks if practices observed are appropriately authorised	

How should Community Visitors best interface with the NDIS Commission – key functions?

Formal agreements are needed to assist in clarifying working practices going forward between the functions of the NDIS Commission and aspects of CVS. The broader question of CVS arrangements was raised as an issue, either national or state and territory based, to make the most effective contribution to disability safeguarding.

Three key functions were highlighted by the Review in particular:

- Complaints and reportable incidents.
- Restrictive practices.
- Preventative visiting.

Complaints and reportable incidents

For the first time under the NDIS Commission there will be one external organisation with responsibility for complaints relating to disability service providers used by NDIS participants (registered and unregistered) as well as reportable incidents. The NDIS Complaints Commissioner will receive complaints relating to breaches of the NDIS Code of Conduct as well as matters relating to service quality, violence, abuse and neglect.

The role of CVS in relation to the NDIS Commission could be to:

- Ensure vulnerable NDIS participants are assisted to raise matters, or raise matters on their behalf when needed both with the NDIS Commission and relating to other issues, for example relating to health or tenancy. Table 5 summarises the arrangements for complaint handling for the full scheme NDIS – CVS can help people navigate the system.
- It is important to note that many issues raised with CVS are not complaints that would require referral to the NDIS Commission. Data on common themes may be of interest to the NDIS Commission and inform capacity building or provider support effort.
- Ensure that the NDIS Commission has been notified of any reportable incident observed or reported to the CVS. CVS should be required to report if a provider's incident management processes have not been followed or an incident is alleged.
- Track the resolution of matters, map against other emerging trends to inform local state or territory planning.
- Follow up by visiting more frequently if there are concerns about a provider.

Providers are also required to ensure the NDIS Commission is notified of reportable incidents and CVS may be able to check that has happened.[28]

Table 5: Complaints bodies

Complaint relates to	Complaint body
Government departments/ NDIA	Office of the Commonwealth Ombudsman
NDIS-funded services: ▪ quality and safeguarding ▪ critical incidents ▪ Australian Disability Enterprise employment	NDIS Quality and Safeguards Commission
Discrimination	AHRC or equivalent states and territory anti-discrimination and equal opportunities bodies
Advocacy services	The Complaints Resolution and Referral Service
	DSS Complaints
	NDIS Quality and Safeguards Commission
Disability Employment Services	DSS Complaints
	National Customer Service Line
DSS decisions	DSS internal complaints process

Table 6: Health, housing and other complaints

Complaint relating to	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Health services	HSC	HCCC	HCSCC	OHO	HCSCC	HCC	HCC	HaDSCO
Tenancy	Civil and Admin. Tribunal	Fair Trading	Comm. of Residential Tenancies	Residential Tenancies Authority	Comm. of Consumer Affairs	Residential Tenancy Comm.	Consumer Affairs Victoria*	n/a
Non NDIS disability services – to be clarified/current arrangements as interim, in some jurisdictions Disability Services Commissioners (DSC) continue to play a role during transition								
State government administrative issues - state and territory Ombudsman								

*** VCAT reviews decisions and the Disability Services Commissioner hears complaints**

Restrictive practices

The NDIS Commission has responsibility for the strategy to regulate and reduce restrictive practices and provide clinical leadership in positive behaviour support. Authorisation of practices is through state and territory government entities. Monitoring the use of restrictive practices when they visit is currently within the remit of some CVS and they work closely with Senior Practitioners.

For example in Queensland, Community Visitors paid 335 monitoring visits in 2016-17 at the request of Queensland Civil and Administrative Tribunal to inform decisions on restrictive practice applications (an 89 percent increase in requests on 2015-16).[29] In 2017-18 the CVS team in Queensland attended training and developed their practice model to better monitor at all their visitable sites, including those with NDIS participants as well as sites subject to unregulated restrictive practices. In the Northern Territory the CVS has been working to raise awareness of what restrictive practices are, and reported that it is an unfamiliar concept to many places they visit (although restrictions are applied).

Insight on the application of restrictive practices, authorised and unauthorised, and early warning if there are problems could be a key contribution of CVS towards the NDIS Framework goal of reducing their use. Underpinning this needs to be appropriate skill development and also recognition of the limitations of their role.

Preventative visiting

The NDIS Commission has wide powers including an audit function that will be undertaken by independent auditors using NDIS Practice Standards at registration and renewal. There are two types of quality audit, either a verification desktop audit, or certification audits which is a more detailed process.

Under the NDIS Commission registered providers are required to:[30]

- Comply with new conditions of registration and the NDIS Practice Standards.
- Comply with the NDIS Code of Conduct.
- Have an in-house complaints management and resolution system, and support participants to make a complaint.
- Have an in-house incident management system, and notify the NDIS Commission of reportable incidents
- Comply with the new worker screening requirements and ensure all NDIS workers complete a rights, respect and risk orientation module.
- Meet new behaviour support requirements (if applicable), including reporting restrictive practices to the NDIS Commission.

Preventative Visiting

Inspectorates should be picking up on systemic issues where systems are failing, what the preventative approach should be is picking up on what the experience is of those who are living within that system, because the system could be working perfectly and still letting people down. It's only by actually understanding what the lived experience within the place is that you actually work out what actually is generating the potential for ill treatment and therefore what needs to be done about it.

Professor Sir Malcolm Evans, Chair of the United Nations Subcommittee on Prevention of Torture

The NDIS Commission's role includes monitoring registered providers for compliance with the conditions of registration, and has the power to suspend, vary or revoke registration. It also has a developmental role with information and other assistance to enable providers to meet requirements.

In addition, the Commission is able to undertake own motion investigations, and follow up complaints or reportable incidents with site visits, interviews and other checks on compliance.

A CVS preventative visiting model complements this approach by providing an independent mechanism separate from the regulator. The description of NPM visiting under the OPCAT highlights the potential for person-centred, local problem solving offered by CVS and highly valued by disability services.[31] Preventative visiting is a different conceptual technique distinct from monitoring and inspection, in that it focuses on the lived experience in a service and places an emphasis on human engagement. Building the capacity of NDIS participants and staff can act both to address issues and raise expectations when people may have become accustomed to sub-standard services.

How should Community Visitors best interface with the NDIS Commission – national or state and territory-based?

The Review highlighted two broad questions around working arrangements for Community Visitors in disability. *Should Community Visitors functions be performed nationally within the NDIS Commission? Or are they better located with states and territories?*

A national Community Visiting Scheme for NDIS participants as part of the NDIS Quality and Safeguards Commission

Some Review informants advocated for the establishment of a national CVS, within the NDIS Quality and Safeguards Commission with powers under the NDIS Act. This is consistent with the Commission's oversight role. Community visiting could be positioned as a resource to the inspection function and/or be deployed in capacity building roles.

Given the extensive "footprint" of existing schemes and their working relationships with accommodation services, the NDIS Commission would be able to gather data quickly and efficiently on the development of the NDIS market and any local issues. This approach would require:

- Agreement on the role and outcomes of Community Visitors within the overall priorities of the Commission and the balance between preventative work and corrective.
- Analysis to demonstrate the scale of resource required in each state and territory.
- Alignment of terms and conditions, likely change from volunteer based to paid models.
- Underpinning legislation, noting the NDIS registrar already has powers for inspection and has developed a Code of Conduct.

The main advantages highlighted by the Review of this approach are:

- The CVS would become the "eyes and ears" of the NDIS Commission.
- Strong internal links with key areas of risk (such as restrictive practices) which could facilitate the dissemination of information and expertise.
- Direct flows of information from local sites to the Commission and from the Commission should there be trends/patterns of concern that need investigation.
- A single scheme nationally for providers to work with rather than the current variants.
- The ability to set a common philosophy of practice, standards and follow through - driving national consistency of approaches to safeguarding requires investment and focus which may not be achieved if commitment is variable.
- It creates a "one stop shop" for complaints and other disability service issues, this provides simplicity for the service user and the service system.

There are however disadvantages. The independence of the CVS from regulators and complaints resolution roles has been an important differentiator across all jurisdictions. The ability to raise issues without a stake in maintaining a particular approach or policy agenda has been key.

Also, as the recent report to Parliament by the Ombudsman of New South Wales, *"Abuse and neglect of vulnerable adults in NSW – the need for action"* (2018) highlights, significant numbers of people with disability and vulnerable people are outside of the NDIS for ILC or services.

States and territories may experience practical disadvantages if the disability element of current schemes were to become a separate entity. In all of the jurisdictions with a scheme (except New South Wales) the CVS includes oversight of areas outside the NDIS (mental health for example); and in Queensland over half of the visitors must visit children who are at prescribed sites (such as disability, or mental health sites), as well as children in the child protection system. Economies of scale and the opportunity to work effectively across regional Australia could be more difficult.

Finally, schemes consider the lives of people with disability from a broader perspective than just their role as consumers of services. For example, in the Northern Territory there is a significant issue for people who are being separated from their communities by the need to travel to secure suitable accommodation. Community Visitors are raising issues of cultural safety as well as encouraging services to seek practical solutions to bring families closer together.

State and territory-based

The Review feedback suggested that although community visiting is widely supported and highly regarded in all the jurisdictions, the advent of the NDIS means changes are required to current arrangements. There are three significant drivers of change:

1. The NDIS promotes contemporary understanding of disability equality. Its starting point is the CRPD and its human rights based foundation. This highlights the need to:

    a. Assume capacity
    b. Seek consent
    c. Support decision making.

    The powers of Community Visitors to enter all visitable homes without invitation and to access all areas, including personal files and records could be perceived as running counter to this.

    This needs to be balanced with the ongoing work on capacity building which aims to assist people to learn how to exercise choice and control, and to speak up when they are unhappy. There are people with disability who may not recognise what is happening to them as abuse or neglect, or who don't know how to speak out. There are both people with disability and family members who fear retaliation. Proactive approaches to engaging face-to-face with residents and making community visiting widely available suggests a safety net at least in the short term is necessary.

2. The nature of disability service provision is changing. Accommodation and independent living supports may be separated (if an NDIS participant chooses), increasing choice and control and providing safeguards. The intent of the NDIS is that fewer people will live in closed systems completely reliant on a single organisation and only interacting with employees of that organisation.[32] However while there may be fewer institutional settings in the future, it will be some time before that is fully realised. In addition there are still many people with disability receiving high intensity personal supports that makes them vulnerable.[33, 34] There are estimated to be over 700,000 people living with profound limitation, and a further 650,000 people with severe limitations in Australia. Of these about 180,000 live in cared-accommodation.[35] This indicates people with a high level of physical and/or intellectual or cognitive impairment living in an institutional or "closed environment" in that they are dependent on staff, and may have extremely limited capacity to make an independent complaint.
3. The introduction of the NDIS Framework signals a focussed and structured approach to safeguarding. Consistent definitions and reliable national data are both vital. At a minimum a more consistent approach to reporting and the establishment of protocols with the NDIS Commission is required to enable data to be shared.

The Review suggests that the new context of the NDIS Framework requires:

- Work by CVS to share and align outcomes, processes, reporting tools.
- Establishment protocols to ensure consent to visiting is secured where possible (already in place in some jurisdictions).
- Work with the NDIS Quality and Safeguards Commission to establish protocols and reporting requirements.
- Agreement on definitions.
- Agreement on how to triage and prioritise visitable NDIS Participants.
- Agreement on action if consent is refused. The ALRC view is that where the risk is severe protective action is mandated.

Increased national consistency could also be achieved with the development of a national core competency framework for Community Visitors, supported by a national training curriculum and visiting protocols.

Concerns about this approach included the practical challenges of getting different schemes to agree to collaborate and use the most robust safeguarding approaches (rather than fight for their "own" tools).

Also given the powers that CVS exercise (entry and inspection for example) there needs to be clear legislative authority. The way this authority is provided, if administered by states and territories, should be a matter for states and territories. Some states and territories may not be satisfied with relying on delegations for performing such significant powers, whereas some may be. This issue should be addressed through a policy decision/drafting practice in each state or territory. As an example the Australian Capital Territory amended the *Disability Services Act 1991* on 7 December 2018 to change the definition of visitable place in response to this changing service landscape.

The rationale for maintaining the state and territory responsibility for community visiting is based on five Review insights.

1. Funded services are only one part of the life of a person with disability. Safeguarding needs a holistic approach within which community visiting operates.
2. The basic needs of health care and housing/tenancies are significant and are areas where protections are needed, and people with disability are at risk. New South Wales for example has recently consulted widely to explore how to set out the rights of people who live in group homes as tenants. Complaints bodies for these areas (health and housing) are state responsibilities. Access to suitable housing is one of the most critical challenges facing people with disability, in particular people with complex disabilities.
3. There is a nexus which currently exists between Community Visitors for disability services and other Community Visitor subjects, especially mental health services which are state-based. All jurisdictions have community visiting for mental health facilities, many of these are within current CVS.
4. Adult protection legislation and supporting mechanisms, if introduced, will be state and territory led, as will the OPCAT reporting frameworks contributing to the NPM.
5. Linking CVS with the human rights-based leadership of public advocates and similar roles demonstrates the commitment of the state to the safety of its most vulnerable citizens.

Clarity of roles may be achieved within the Productivity Commission's current review of the National Disability Agreement.

WestWood Spice has concluded that 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 (for example over the next three months could CVS have nutrition as an area of focus within the Visits).

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.

Longer term – an adult protection lens

Complexity in safeguarding also relates to the intersection of disability with other systems such as the aged care system, and the mental health system, including movement of people between the systems. Recent Australian work responding to elder abuse[36] has

flagged the need for more holistic approaches to the safeguarding of at-risk adults, balancing the dignity and autonomy every adult is entitled to against preventing and protecting the most vulnerable.

The portfolio of the majority of the current CVS that already visit people in mental health and other types of facilities would lend itself to this approach.

Proportionality and risk responsiveness are underpinning principles in the design of the NDIS Framework. It is clear that many of the features of the NDIS Framework align with the goals of adult protection strategies more broadly.

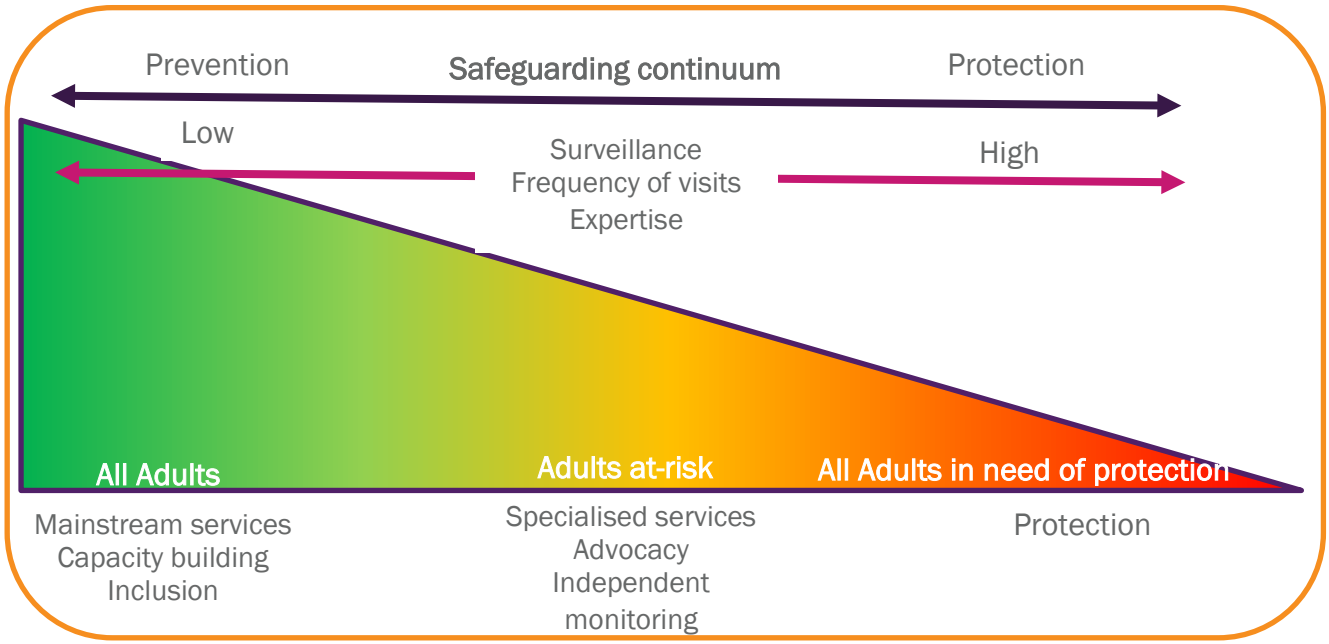
Figure 4 suggests a conceptual model for a safeguarding continuum. This recognises that the majority of people, including people with disability, are able to exercise their rights and enjoy dignity of risk. They do not require protective, safeguarding activities but mainstream service may need adjustments to be inclusive and some people require capacity building to exercise choice and control.

Some people experience additional risk because of the nature of their disability or circumstances. They may require additional supports and advocacy to be included and to overcome the legacy of past experiences (such as being bullied or ignored).

For a small group of people intense protection is required because of the severity of the risks associated with their circumstances, disability, and absence of any other natural supports. It may include people who are likely to harm themselves or others.

The notion of a continuum is helpful as it indicates people are not “stuck" in a single state, and as circumstances change, their need for safeguarding may change.[37] Greater flexibility of safeguarding surveillance, frequency of visiting and the expertise required by Visitors could be a feature of future models.

Figure 4: Safeguarding continuum



Conclusion

> *If we looked at what went wrong in the past and potentially is going wrong today it is that the least powerful were not listened to when they were subject to abuse. People didn't believe them ... it was the disempowerment of those people but it was also the disempowering of the staff and others who wanted to raise concerns.*
>
> **Robert Fitzgerald, AM (2018)[38]**

The Review of CVS has concluded that there is an important role for independent oversight of at-risk adults to reduce violence, exploitation and neglect. Key and distinctive contributions are:

- The ability to intervene early "on the ground" and face-to-face to prevent abuse and neglect of people with disability, and effect client centred improvements.
  - This requires an ongoing program of visiting of sufficient frequency and quality to build positive relationships and trust with service users and providers whilst maintaining neutrality and objectivity.
- The ability to collect data on the progress and impacts of the NDIS reforms across multiple sites and client situations.
  - This requires alignment of reporting and collaboration with the NDIS Commission to achieve consistency and usable data.
- The power of the voice of Community Visitors to governments and other agencies such as health and housing to inform systemic improvements.
  - This requires independence and leadership to cut across silos.

The Review found that CVS should play a role in safeguarding vulnerable NDIS participants, working with the broad framing providing by the NDIA and the specific requirements of the NDIS Framework. They are a means of integrating Community, System, Service and Individual elements of safeguarding and can make a contribution to each.

The Review has described some of the challenges faced by states and territories transitioning to the NDIS. The establishment of the NDIS Commission and its increasing footprint nationally will assist in providing clarity in areas where there has been uncertainty. In the meantime however the NDIS Framework is untested. There is an urgent and important need to maintain and enhance understanding of the experience of vulnerable NDIS participants within the evolving service system.

Given the significant new safeguards being introduced, including mandatory reporting, worker screening and behaviour supports and expertise, a future review of CVS is recommended. This should be timed for when there has been an opportunity to see how the NDIS Framework impacts on the problems of violence, exploitation and neglect and identify any implications for further development of CVS.

The Review findings accord with the views of the Parliament of Australia Senate Inquiry (November 2015) Recommendation 10,[38] and the Australian Human Rights Commission report (June 2018). The Review supports community visiting as a key mechanism to achieve independent oversight of institutional settings both within the disability service system and mainstream settings such as justice and health, and notes adequate funding is required.

To achieve the goals and aspirations of the CRPD, holistic, responsive, preventative and client-centred visiting has a key role in protecting the rights of people under Article 16.[39]

In the future, schemes will need to move from focusing on a list of visitable places to consideration of the factors that contribute to risk as well as identifying where risk sits as part of strategic and integrated protection. Whilst this provides challenges, it is an important direction consistent with the aspirations of the NDS for an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens, free from harm or abuse.

List of findings

CVS provide local, independent support to vulnerable NDIS participants by:

- Upholding of an individual's human rights and to ensure service provision is appropriate in order to prevent violence, abuse and exploitation.
- Supporting appropriate decision making which maintains a focus on an individual is central to any decision made about them and in line with the wishes of the individual.
- Facilitating local capacity building to achieve resolution of issues in services at the earliest possible stage.
- Adding to regulatory intelligence on services and systemic issues to the state or territory as well as to the NDIS Commission.

In the long term, there appear to be strong reasons to align community visiting of people with disability within a broader adult protection paradigm encompassing safeguarding in mental health institutions and other facilities. States and territories may wish to consider how different visiting schemes might work more closely together and share information as a first step, particularly where people with disability are users of more than one system.

List of recommendations

1. That CVS for disability, while having a broader scope than the NDIS, have a contribution to make to the NDIS Quality and Safeguarding Framework and that the contribution of CVS should be formally recognised within the NDIS Framework
2. That the role of Community Visitors be provided by state and territory-based schemes where they exist.
3. That Northern Territory, Western Australia and Tasmania may wish to consider the establishment of a CVS as described in the findings where these supports are not provided through other state or territory-based systems.
4. To support CVS interface with the NDIS Commission, the following matters should be agreed between the NDIS Commission and states and territories:
    a. Authority of Community Visitors to enter the premises of NDIS providers.
    b. Data and information sharing.
    c. Compulsory reporting to the NDIS Commission on alleged reportable incidents and failure to adhere to incident management processes.
    d. Reporting on patterns of concern to the NDIS Commission and state/territory agencies.
    e. Role of CVS in relation to restrictive practices monitoring and reporting.
5. In the medium term, Commonwealth and states and territories should work towards national consistency around key aspects of CVS including:
    a. Reporting
    b. Standards for review (and alignment with practice standards)
    c. Scope
    d. Interface with NDIS Commission to define minimum consistency necessary
    e. Any role within the OPCAT NPM.
6. CVS are working in an evolving context, and will benefit from being included in the broader Quality and Safeguarding Framework review due in 2021-22.

References

All urls checked 16 December 2018

Australian Bureau of Statistics 4431.0.55.003– Experiences of Violence and Personal Safety of People with Disability, 2016, 28 November 2018
http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4431.0.55.003Main%20Features12016?opendocument&tabname=Summary&prodno=4431.0.55.003&issue=2016&num=&view=

Australian Government Productivity Commission, National Disability Agreement Review Issues Paper, July 2018
https://www.pc.gov.au/inquiries/current/disability-agreement/issues/disability-agreement-issues.pdf

Australian Human Rights Commission, A Future Without Violence – quality safeguarding and oversight to prevent and address violence against people with disability in institutional settings, June 2018
https://www.humanrights.gov.au/our-work/disability-rights/publications/future-without-violence-2018

Australian Institute of Family Studies, Elder abuse understanding issues frameworks and responses Research Report 35, February 2016
https://aifs.gov.au/publications/elder-abuse

Australian Law Reform Commission, Elder Abuse A National Legal Response summary report 13 May 2017
https://www.alrc.gov.au/publications/elder-abuse-report

Australian Senate Community Affairs Reference Committee, Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability, November 2015
https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report

Australian Senate Community Affairs Reference Committee, Effectiveness of the aged care quality assessment and accreditation framework for protecting residents from abuse and for practices and ensuring proper clinical and medical care standards are maintained and practiced, interim report February 2018
https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/AgedCareQuality

Caruna, S., To enhance best practice inspection methodologies for oversight bodies with an Optional Protocol to the Convention Against Torture focus. Churchill Fellowship Report 2017.
https://www.churchilltrust.com.au/media/fellows/Caruana_S_2017_inspection_methodologies_for_oversight_bodies_with_an_OPCAT_focus.pdf

Chief Advocate for Residents of Declared Places, West Australia Annual Report 2017-18 October 2018
https://mhas.wa.gov.au/assets/documents/2017-2018-DJC-Annual-Report.pdf

Commonwealth of Australia, NDIS Framework, Department of Social Services
9 December 2016
https://www.dss.gov.au/sites/default/files/documents/02_2017/ndis_quality_and_safeguarding_framework_final.pdf

Commonwealth of Australia, NDIS Quality and Safeguards Commission Corporate Plan 2018 to 2019, November 2018
https://www.ndiscommission.gov.au/document/1116

Council of Australian Governments, National Disability Strategy 2010 to 2020
https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-disability-strategy-2010-2020

Department of Social Services Consultation Report (ARTD Consultants) National Disability Insurance Scheme Quality and Safeguarding Framework 31 August 2015
https://engage.dss.gov.au/wp-content/uploads/2015/11/consultation_report_ndis_quality_safeguarding_framework.pdf

Department of Health, Review of the Community Visitors scheme final report January 2017
https://agedcare.health.gov.au/support-services/review-of-the-community-visitors-scheme-final-report

EJD Consulting and Associates, Protections for Residents of Long-term Supported Group accommodation in New South Wales, report on consultations for New South Wales Department of Family and Community Services September 2018
https://www.facs.nsw.gov.au/about/reforms/future-directions/resident-rights-consultation

Fitzgerald R. Video “Quality and Safety in Disability Services” WestWood Spice 2018

Hanely N. and S. Ross, Forensic Mental Health in Australia - Charting the Gaps, University of Wollongong 2013
https://ro.uow.edu.au/sspapers/2022/

Health and Disability Services Complaints Office Government of Western Australia Disability Services Data Collection Report 2016 to 2017
https://www.hadsco.wa.gov.au/docs/reports/2016-17/HaDSCO_2016-17_Annual_Report_Office_overview.pdf

Health Information and Quality Authority and Mental Health Commission Ireland, Safeguarding Background Document to Support the Development of National Standards for Safeguarding May 2018
https://www.hiqa.ie/reports-and-publications/standard/background-document-support-development-national-standards-adult

ITHACA Project Group, ITHACA Toolkit for monitoring human rights and general health care and medical and social care institutions 2010
https://www.researchgate.net/publication/275713420

Laing, J. 2017. Preventing violence, exploitation and abuse of persons with mental disabilities: Exploring the monitoring implications of Article 16 of the United Nations Convention on the Rights of Persons with Disabilities. *International Journal of Law and Psychiatry*, *53*, 27-38. DOI: 10.1016/j.ijlp.2017.05.012

Mental Health Advocacy Service Annual Report 2016-17
https://mhas.wa.gov.au/assets/documents/MHAS-Annual-Report-2016-17-web-version.pdf

National Disability Services, Australian Disability Workforce Report 3rd edition. July 2018
https://www.nds.org.au/images/workforce/ADWR_Third_Edition_July_2018.pdf

National Disability Services, State of the Disability Sector Report 2017
https://www.nds.org.au/news/state-of-the-disability-sector-report-2017-reflects-sector-under-pressure

National Disability Services Northern Territory, Zero Tolerance Evaluation (Unpublished), October 2017

NDIS Quality and Safeguards Commission, Complaints Management Resolution Guidance May 2018, Draft
https://www.ndiscommission.gov.au/sites/default/files/documents/2018-06/complaint_management_resolution_guideance.pdfRecord findings and identify trends

NDIS Quality and Safeguards Commission, Compliance and Enforcement Policy, June 2018
https://www.ndiscommission.gov.au/sites/default/files/documents/2018-07/Compliance%20and%20Enforcement%20Policy.pdf

NDIS Quality and Safeguards Commission, Corporate Plan, 2018-19, October 2018
https://www.ndiscommission.gov.au/sites/default/files/documents/2018-11/ndis-quality-and-safeguards-commission-corporate-plan-2018-2019_0.pdf

New South Wales Law Reform Council, Review of the Guardianship Act 1987, November 2017
https://www.lawreform.justice.nsw.gov.au/Documents/Current-projects/Guardianship/Draft%20Proposals/Draft%20Proposals.pdf

NT Community Visitor Program Annual Report 2016-17
https://cvp.nt.gov.au/__data/assets/pdf_file/0020/601049/FINAL-CVP-Annual-Report-2017-18-Signed-280918.pdf

Northern Territory Community Visitor Program Annual Report 2017-18
https://cvp.nt.gov.au/resources/publications

Official Visitor Disability Services Annual Report 2016-17. Report to the Legislative Assembly for the Australian Capital Territory
https://www.communityservices.act.gov.au/__data/assets/pdf_file/0003/1169553/Official-Visitor-for-Disability-Services-Annual-Report-2016-17.pdf

Official Community Visitor Scheme NSW Annual Report 2016-17
https://www.ombo.nsw.gov.au/news-and-publications/publications/annual-reports/community-visitors

Office of the Public Advocate Community Visitors Scheme Annual Report 2016-17
https://www.publicadvocate.vic.gov.au/media-releases/245-2017-community-visitors-annual-report-tabled

Office of the Public Advocate, The Illusion of Choice and Control, September 2018
https://www.publicadvocate.vic.gov.au/our-services/publications-forms/research-reports/ndis/519-the-illusion-of-choice-and-control

Office of the Public Guardian Annual Report 2016-17
https://www.publicguardian.qld.gov.au/about-us/publications/annual-reports

Office of the Public Guardian Annual Report 2017-18
https://www.publicguardian.qld.gov.au/about-us/publications/annual-reports

Ombudsman of NSW, Abuse and neglect of vulnerable adults in NSW – the need for action A Special Report to Parliament under section 31 of the Ombudsman Act 1974
2 November 2018
https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0003/62139/Abuse-and-neglect-of-vulnerable-adults-in-NSW-November-2018.pdf

Principal Community Visitor of South Australia, Annual Report Disability Services 2017-18 and 2016-17
https://communityvisitorscheme.sa.gov.au/__data/assets/pdf_file/0004/75523/2017-18-Annual-Report-of-the-Principal-Community-Visitor-on-Disability-Services-final-181018.pdf

Schulz M, Freedom from exploitation violence and abuse of persons with disabilities Contribution to the Council of Europe Strategy on the Rights of Persons with Disabilities
June 2017
https://rm.coe.int/final-study-freedom-from-exploitation/168072b422

Victorian Government, Dignity, respect and safer services, Victoria's disability abuse prevention strategy, March 2018
https://www.dhhs.vic.gov.au/disability-abuse-prevention

VCOSS Protecting Tenancy Rights and Specialist Housing June 2017
https://vcoss.org.au/wp-content/uploads/2017/07/SUB170501_Protecting-tenancy-rights-in-specialist-housing.pdf

Endnotes

[1] Description of the role of the NDIS Quality and Safeguards Commission from the website https://www.ndiscommission.gov.au/providers (viewed 12Dec 2018)

[2] National Disability Strategy 2010-2020

[3] 12,000 calculated using the figures from 2016-17 Annual reports detailed at table 3.

[4] National Disability Strategy 2010-2020

[5] See Australian Human Rights Commission (2018) page 15 and the Australian Senate Community Affairs Reference Committee, Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings (2015) comment 2.95 "*The committee is also concerned with the lack of reliable statistical data available for policy development to eliminate violence, abuse and neglect of people with disability. The use of passive and active exclusion of people with disability from the statistical record of our country means that issues of violence, abuse and neglect continue to remain out-of-sight and out-of-mind".*

[6] ABS data viewed 13 December 2018 http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4431.0.55.003Media%20Release42016?opendocument&tabname=Summary&prodno=4431.0.55.003&issue=2016&num=&view=

[7] Convention on the Rights of Persons with Disabilities (2008) Articles 4.1 and 4.5

[8] NDIS Commission Annual Plan 2018-19

[9] Act of the NSW Parliament 45 (1898) http://www.austlii.edu.au/au/legis/nsw/num_act/lao1898n45137.pdf

[10] Department of Health, Review of the Community Visitors scheme final report January 2017

[11] https://www.redcross.org.au/get-help/community-services/companionship-social-support

[12] In Queensland, other than in authorised mental health services or government funded forensic disability services, the CVS (adult) only applies to adults with impaired capacity for a personal matter or a financial matter, or with an impairment, as defined under the *Public Guardian Act 2014 (Qld)* and *Guardianship and Administration Act 2000 (Qld).*

[13] National Disability Strategy 2010-2020

[14] Ninety three percent of the 207 survey respondents reported that CVS were beneficial for people with disability. Eighty five percent of respondents who were not Community Visitors considered the schemes beneficial. However the survey did not provide a balanced sample of respondents with the majority from one state (Victoria) and one role (Visitor).

[15] Australian Human Rights Commission, June 2018

[16] Australian Senate Community Affairs Reference Committee, Effectiveness of the aged care quality assessment and accreditation framework February 2018

[17] Australian Law Reform Commission, 13 May 2017

[18] EJD Consulting and Associates, September 2018

[19] National Disability Services NT Zero Tolerance Evaluation Report Evaluation Report (unpublished) 2017

[20] For example see many submissions to the Senate Inquiry, Violence, abuse and neglect against people with disability in institutional and residential settings 2015

[21] Council of Australian Governments National Disability Strategy 2010-20

[22] National Disability Services NT Zero Tolerance Evaluation Report (unpublished) 2017

[23] Australian Senate Community Affairs Reference Committee, Effectiveness of the aged care quality assessment and accreditation framework, Interim report, February 2018

[24] Office of the Public Advocate (Victoria), The Illusion of Choice and Control, September 2018

[25] National Disability Services, Australian Disability Workforce Report 3rd edition - July 2018

[26] NDIS Operational Guidelines https://www.ndis.gov.au/operational-guideline/planning/performing-needs-assessment.html#8.4 (viewed 29 November 2018)

[27] NT Community Visitor Program Annual Report

[28] NDIS Quality and Safeguards Commission, Complaints Management Resolution Guidance May 2018, Draft

29 OPG Annual Report 2016-17 page 32

[30] See website registration guidance https://www.ndiscommission.gov.au/providers/provider-registration

[31] Caruna, S. To enhance best practice inspection methodologies for oversight bodies with an Optional Protocol to the Convention Against Torture focus. Churchill Fellowship Report 2017

[32] For example NDS State of the Sector Report 2017 notes the extent to which clients are moving between disability service providers is increasing

[33] OPA Victoria "Illusion of Choice and Control" 2018

[34] See National Disability Strategy 2010-2020 page 38, people with disability fare worse in institutional contexts

[35] ABS, Survey of Disability, Ageing and Carers, Australia: Summary of Findings, Disability Characteristics, ABS, Canberra, 2012 quoted in Senate Community Affairs References Committee Report "Violence abuse and neglect…' (2015) Section 1.31, Figure 1.1 https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report/c01

[36] Australian Law Reform Commission 2017

[37] Figure based on image in Health Information and Quality Authority and Mental Health Commission Ireland, Adult Safeguards, May 2018, page 76

[38] National Disability Strategy 2010-2020

[39] Laing, J. (2017). *Preventing violence, exploitation and abuse of persons with mental disabilities: Exploring the monitoring implications of Article 16 of the United Nations Convention on the Rights of Persons with Disabilities*. International Journal of Law and Psychiatry, 53, 27-38. DOI: 10.1016/j.ijlp.2017.05.012