



Ensuring the well-being of people with disabilities

October 2020

The JIM Cluster has been inviting you for the last two years to seek to ensure people with disabilities can live decent lives, free of abuse and neglect. Australian Governments, Commonwealth and State, have introduced the National Disability Insurance Scheme (NDIS) to support people with disabilities. On the positive side, the NDIS is designed to allow people with disabilities a more significant say in what services and supports they need. Often it grants funds directly to the person with the disability or their carer. On the negative side, the NDIS has marketised and privatised care of people with disabilities. In the UK, where such a system already exists in some care sectors, it has resulted in a substantial increase in the exploitation of people working to provide services. A degrading of the quality of care has resulted. Whether Australia ends up with the same outcome will depend on what safeguards are put in place to protect people with disabilities.

In accordance with the Uniting Church Basis of Union, the Church is a fellowship of reconciliation, "a body within which the diverse gifts of its members are used for the building up of the whole, an instrument through which Christ may work, and bear witness to himself" (Paragraph 3). In light of this, the Uniting Church affirms that:

- (a) Christ is most fully present when all people in the Body are unconditionally accepted as people of worth. All people are created in the image of God, including people with disability;*
- (b) along with all members, the faith, gifts, hopes and dreams of people with disability are to be valued and honoured; and*
- (c) God is a God of justice and peace, who seeks reconciliation amongst all people.*

Part of a resolution passed by the 15th Triennial National Assembly meeting of the Uniting Church in 2018.

Ann Marie Smith died on 6 April 2020 after a substantial period of neglect. She died from severe septic shock, multiple organ failure and malnutrition. She had been confined to a cane chair in her home for more than a year. In the words of the South Australian Government Safeguarding Task Force "The sheer horror of what is alleged to have occurred in the last 12 months of her life and the manner of her death is what nightmares are made of." She lived by herself in her own home and had Rosemary Maione as her only carer. Integrity Care Ltd, an agency registered with the NDIS, employed Rosemary. On 6 August 2020, Rosemary was charged with manslaughter by the South Australia Police.

The NDIS Quality and Safeguards Commission deregistered Integrity Care Ltd from the NDIS effective on 14 August 2020.

On 26 May 2020, the NDIS Quality and Safeguards Commission appointed an independent reviewer, Alan Robertson SC, to examine how the NDIS systems had failed Ann Marie.

Mr Robertson made the following recommendations from his review:

- The NDIS Quality and Safeguards Commission should act to identify earlier people with disability who are vulnerable to harm or neglect.
- No vulnerable person on the NDIS should have a sole carer providing services in the person's home.
- For each vulnerable person on the NDIS, there should be a specific person with overall responsibility for the person's safety and well-being.
- State and Territory Community Visitor Schemes should continue. Community Visitor Schemes train members of the community to be able to visit people with disabilities to check on their well-being. Mr Robertson recommended that consideration should be given to establishing a Community Visitor Scheme to provide face-to-face contact with people on the NDIS where existing schemes do not cover them.

- The NDIS should conduct visits to assess the safety and well-being of people on the NDIS, even where no complaint has been made against those providing care and services.
- The definition in law of “reportable incident” in the NDIS Act should be amended to make it clear that it includes a real or immediate threat of one of the listed types of harm in the legislation.
- The word “complaints” in the NDIS Act should be defined to remove any doubt that it includes concerns and observations concerning the provision of supports or services by agencies registered with the NDIS.
- The NDIS Quality and Safeguards Commission should have the power to ban businesses from the NDIS even when those businesses are no longer providing services.

In response to the review by Mr Robertson, the Commonwealth Government announced it would provide the NDIS Quality and Safeguards Commission with an extra 100 staff and \$92.9 million in funding over four years. However, part of the additional staff and budget is to cover the inclusion of Western Australia into the NDIS.

The South Australian Government Safeguarding Taskforce also conducted a review to identify gaps in the safeguards to protect people with disability. They released their report in July 2020. In addition to the findings of Alan Robertson’s review, they identified the following gaps:

- The support coordinator for a person on the NDIS can be from the same agency that provides other core services for the person. Such an arrangement is a conflict of interest.
- NDIS plans for people with disabilities do not routinely include strategies to minimise risks to the person.
- People on the NDIS and their families are unclear about how to raise matters of concern with the NDIS Quality and Safeguards Commission.
- The NDIS Quality and Safeguards Commission does not routinely carry out inspections to vet the performance of service providers.

Unfortunately, Ann Marie Smith’s case of neglect is not isolated. Media reports of other cases of neglect and abuse of people on the NDIS are appearing regularly in the media.

What you can do

Write a polite and respectful letter to:

The Hon Stuart Robert MP
 Minister for the National Disability Insurance Scheme
 PO Box 6022
 House of Representatives
 Parliament House
 Canberra ACT 2600

Salutation: Dear Minister

Points to make in your letter:

- Express deep concern at the death of Ann Marie Smith and other cases of neglect and abuse of people with disabilities on the NDIS.
- Welcome the steps the Government has already taken to improve safeguards on the NDIS to ensure the well-being of people with disabilities.
- Ask that the Government commit to implementing the recommendations of the review by Alan Robertson that fall within the control of the Commonwealth Government.
- Specifically, ask that the NDIS Act be amended to ensure “reportable incident” includes a real or immediate threat of one of the listed types of harm in the legislation. Also, the word "complaints" in the NDIS Act should be defined to remove any doubt that it includes concerns and observations concerning the provision of supports or services.
- Ask that the Commonwealth Government ensure that all NDIS participants have access to a Community Visitors Scheme, should they wish to be part of such a scheme.
- Ensure the NDIS Quality and Safeguards Commission is required to ban the key management personnel of an entity responsible for abuse or neglect of people on the NDIS to ensure they cannot be involved with another entity on the scheme.
- Further, ask what actions the Commonwealth Government has taken to address the gaps in safeguards that were identified by the South Australian Government Safeguarding Task Force in their report released in July 2020.