

Disability Safeguards Consultation  
Australian Government Department of Health, Disability and Ageing  
C/O Australian Healthcare Associates  
Via email: [DisabilityStandardsConsultation@education.gov.au](mailto:DisabilityStandardsConsultation@education.gov.au)

Dear Consultation Team,

### **National Disability Safeguards Consultation - Submission by Advocacy for Inclusion**

Thank you for the opportunity to provide a submission to the National Disability Safeguards Consultation.

Advocacy for Inclusion (AFI), incorporating People with Disabilities ACT, is a Disabled People's Organisation providing systemic advocacy informed by our individual and self-advocacy work across the ACT. Most of our Board, staff and members are people with disability, and AFI's policy positions are grounded in lived experience and co-designed with our community. Our work is guided by the principles of the Convention on the Rights of Persons with Disabilities.

In this submission, we emphasise four issues we see as critical to ensuring safeguards work in practice, particularly for people in vulnerable situations both within the NDIS and across mainstream service systems, including health, education, housing and justice:

1. *Independent advocacy for people with disability—and the adequate funding of that advocacy—is itself a core safeguard.* Where advocacy is weak, under-resourced or absent, other safeguards routinely fail in practice.
2. *Quality failures are often systemic rather than individual, and therefore preventable.* Effective safeguarding must be preventative, addressing structural drivers of harm such as under-resourcing, segregation and poor service coordination. We include key examples of how these drivers lead to unsafe and harmful environments in the ACT.
3. *Risks are particularly heightened for people under guardianship and trustee arrangements.* If the Disability Support Quality and Safeguarding Framework and Strategy are to be effective, they must explicitly account for the distinct vulnerabilities created by substituted decision-making arrangements.
4. *AFI strongly supports strengthened implementation of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).* For OPCAT to function as an effective safeguard, implementation must be properly resourced and underpinned by education and cultural change.

We also highlight specific ACT issues and caution against reforms with unintended consequences—such as blanket NDIS provider registration—that may reduce choice, control and informal safeguards if not carefully designed.

### **1. Advocacy as a foundational safeguard**

Our central position is that independent advocacy—and the adequate funding of that advocacy—is itself a core safeguard. As highlighted in the consultation paper, advocacy and independent oversight are central to effective safeguarding. They play an overarching role in identifying and preventing harm, abuse and neglect, and ensuring accountability across a range of settings.

Safeguarding starts with people knowing their rights, having accessible information, having trusted supports and advocates, and being able to speak up early, safely and effectively. Advocacy is often the only mechanism through which concerns are raised for people who:

- are subject to guardianship or financial management orders
- live in congregate or closed settings
- have limited access to informal supports
- experience communication barriers or significant power imbalances.

Where advocacy is weak or absent, other safeguards routinely fail—particularly for people under guardianship and trustee arrangements. Without strong, independent advocacy, safeguarding frameworks risk becoming procedural rather than protective, undermining their capacity to deliver real safety outcomes. Advocacy must therefore be recognised as a foundational, preventative safeguard and funded accordingly.

### **2. People under guardianship and trustee arrangements**

The consultation paper recognises that some people face greater risks due to structural power imbalances and reduced autonomy. People subject to guardianship and trustee arrangements experience increased vulnerability due to reduced decision-making power and limited opportunities to speak up and challenge poor practice. In these circumstances, the quality of guardianship and trustee decision-making is critical to minimising the risk of harm.

In the ACT, AFI has observed persistent concerns about how these arrangements operate in practice, including:

- limited scrutiny of whether substitute decision-making is necessary, proportionate, and used only where less-restrictive options are not viable.
- insufficient attention to the lived experience and day-to-day impacts of trustee decisions on autonomy, participation and wellbeing.
- limited independent scrutiny and review of trustee decisions in practice, including how decisions affect people's rights and quality of life.
- issues arising from for-profit trustee arrangements and the coupling of trustee and guardian roles.
- decision-making processes that tend to prioritise administrative efficiency and risk management over dignity, safety and quality of life.

Safeguards must go beyond appointment processes to include ongoing oversight of how guardianship and trusteeship operate in practice, with a strong focus on rights, outcomes and lived experience.

### 3. Safeguarding gaps in the ACT – key examples

Quality failures are often systemic and preventable. Consistent with the consultation paper's emphasis on prevention, safeguards must go beyond compliance strategies. They need to incorporate coordinated strategies to prevent harm across disability services and mainstream settings. In the ACT, under-resourcing, segregation and fragmented service delivery continue to create environments that lead to unsafe and dehumanising outcomes for people. For example:

- *Housing options and congregate living arrangements:* There is a well-established link between housing circumstances and vulnerability to risk and safety. While the ACT does not have large boarding houses, we do have a significant number of large group homes with institutional features, and there are also some new and emerging congregate models which have come into being as a consequence of unsolicited housing bids. Limited alternative options mean many people— particularly people with intellectual disability and people under guardianship or trustee arrangements—are forced into congregate or substandard accommodation with little choice or control over daily life. These environments entrench isolation, limit access to advocacy and informal supports, reduce visibility of harm, and create conditions where neglect, coercion and rights erosion become normalised. These risks are compounded by dysfunctional processes for accessing Supported Independent Living (SIL) funding and limited exit pathways.
- *Education and segregation:* In segregated or partially segregated schooling environments, students with disability are frequently excluded from excursions, assemblies and mainstream learning due to insufficient staff support. Confinement to small, separate programs often results in boredom and isolation, with distress or behaviour then punished rather than understood—reinforcing exclusion and undermining learning and human rights. Recent incidents involving restrictive practices in ACT schools highlight the need for effective resourcing and infrastructure to support inclusive education.
- *Health and long-stay settings:* Poor coordination between disability, health and housing systems has resulted in some people with disability remaining in long-stay hospital or sub-acute settings for extended periods. In these environments, people may lack access to therapies, dental care, social participation and basic wellbeing supports, leaving them institutionalised without a clear pathway back to community life—contrary to key safeguarding and human rights principles.

Poor coordination of NDIS services, and between the NDIS and supports provided through other programs, further compounds these risks. In the ACT, significant service gaps limit the accessibility and effectiveness of the NDIS and undermine the seamless flow of information and support for people with disability. Chief among these concerns is the quality and consistency of Local Area Coordination, which plays a critical role in navigation, early identification of risk and connection to safeguards.

Safeguards and quality systems work best when people with disability co-design services, as well as complaints and monitoring systems. Independent advocacy and co-design play an important role in bringing harmful environments to light, enabling early intervention, and translating lived experience into practical advice on preventative strategies. Segregating people together away from others makes people less, not more, safe.

#### 4. OPCAT and preventative oversight

The consultation paper highlights the importance of independent monitoring and proactive oversight in preventing harm. AFI strongly supports strengthening Australia's implementation of OPCAT. For OPCAT to function effectively as a preventative safeguard, there must be:

- adequate and sustained resourcing of National Preventive Mechanisms (NPMs), including a strong education and capacity-building function to promote rights-based preventative practice
- coverage of all relevant places of detention and deprivation of liberty, including disability-specific and quasi-institutional settings.

In the ACT, we are particularly concerned that insufficient attention and resourcing are being given to the community engagement, education and cultural change functions required for OPCAT to operate as intended. While funding has been provided for a staffing position, effective OPCAT implementation also requires dedicated resourcing for this broader systemic change work.

Investment in OPCAT is an investment in early intervention, harm prevention and systemic accountability. Without adequate and sustained resourcing, OPCAT risks becoming symbolic rather than delivering meaningful preventative oversight.

#### Conclusion

Effective disability safeguarding cannot rely on regulatory structures alone. It requires sustained investment in a range of actions to protect people with disability from harm, with independent advocacy as a key enabler. In addition, effective safeguarding requires robust oversight of guardianship and trustee arrangements, preventative policy strategies to avoid creating harmful and exclusionary environments, and strong, properly resourced OPCAT implementation.

This submission has highlighted key systemic issues and examples of safeguarding failures that are causing concern within the ACT disability community. For ease of reference, AFI highlights the following issues as requiring ongoing safeguards attention in the ACT:

#### *Summary of ACT issues requiring safeguards work and attention (for ease of reference)*

- Funding and resourcing for community and sectoral change functions, including under OPCAT
- High-profile incidents of restrictive practices in ACT schools, pointing to the need for effective resourcing and infrastructure to support inclusive education
- The circumstances of people with disability in long-stay hospital and health settings
- Greater resourcing and profile for Official Visitors in the ACT
- Significant service gaps that limit access to and effectiveness of the NDIS, including the quality and consistency of Local Area Coordination
- Housing arrangements posing risks to safety, including large group homes with institutional features, new congregate models arising from unsolicited housing bids, dysfunctional SIL access processes, and gaps in homelessness services, including a lack of fully accessible shelters

In addressing these gaps and safeguarding failures, we caution against relying on blunt or blanket reforms—such as compulsory NDIS provider registration. Such measures do not, in themselves, create safety or effective safeguards. There is a risk of unintended consequences, including reduced choice and control and the displacement of existing informal safeguards or trusted supports. Safeguarding reforms must therefore be carefully designed to avoid shifting risk rather than reducing it, particularly where they limit people’s agency over who provides support.

Thank you again for the opportunity to contribute to this process. We welcome the opportunity to continue to engage with this work in future stages of the planned consultation. Please contact me, at [Craig@advocacyforinclusion.org](mailto:Craig@advocacyforinclusion.org), or our Senior Policy Officer, Harry Lomas, at [Harry@advocacyforinclusion.org](mailto:Harry@advocacyforinclusion.org), if you wish to discuss this submission further.

Regards,

A handwritten signature in black ink, appearing to read 'Craig Wallace', written in a cursive style.

**Craig Wallace**  
Head of Policy  
Advocacy for inclusion  
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