

Appendix A: List of organisations written to by the Attorney General's Department and Survey Questions

The department wrote to the following 20 disability representative organisations to bring our review to their attention and to invite them to provide submissions:

- Australian Federation of Disability Organisations
- Autism Aspergers Advocacy Australia
- Blind Citizens Australia
- Brain Injury Australia
- Carers Australia
- Children and Young People with Disability Australia
- Deaf Australia
- Deafblind Australia
- Deafness Forum of Australia
- Disability Advocacy Network Australia
- Down Syndrome Australia
- First Peoples Disability Network
- Inclusion Australia
- National Aboriginal and Torres Strait Islander Legal Services
- National Ethnic Disability Alliance
- National Mental Health Consumer and Carer Forum
- People with Disability Australia
- Physical Disability Australia
- Women with Disabilities Australia
- Your Story Disability Legal Support

Questions for stakeholder organisations

Listed below are the questions asked in correspondence the department sent to the 20 disability representative organisations listed above, inviting their input into the review.

- What issues/concerns have people raised with the First Peoples Disability Network about how information they might provide to the Royal Commission would be protected?
- Where people have been reluctant to provide information, what have been their main concerns, barriers or experiences?
 - How satisfied have people been with the assurances provided by the Royal Commission about how they can provide information in a confidential way, and about how their information and identities will be protected?
 - Where people have expressed fear about other people, such as support workers, finding out about their submission, have people clarified what particular consequences they would fear? What measures have worked to reassure people that they can tell their story?
- Have people raised concerns about any specific adverse consequences that may arise as a result of their engagement with the Royal Commission, such as their disability care, support services, employment or other consequences?
 - Where people have expressed fear about adverse consequences arising from engagement with the Royal Commission, have people clarified what particular consequences they would fear?
- Where people have engaged with the Royal Commission, which means of providing information to the Royal Commission have people found to have been the most effective?
 - Have people been more interested in providing written feedback to the Royal Commission, attending public hearings or participating in private sessions?
 - Have you identified any changes in people's willingness or desire to provide feedback to the Royal Commission since the commencement of the recent legislative amendments?
- What do you consider would be the most effective ways of alleviating people's concerns about providing information to the Royal Commission?
 - Are there particular legislative amendments or policies that you think would encourage people to come forward to the Royal Commission?

Survey Questions

Listed below are questions asked in an online survey published on the Attorney General's Department website.

1. Are you satisfied with the options available for providing sensitive information to royal commissions? Are there other ways of providing information that you would like to be able to use?
2. What are some concerns or barriers that would make you or someone you know reluctant to provide sensitive information to a royal commission?
3. Do you have any examples of a person having experienced negative consequences from engaging with a royal commission? This could be in the form of receiving different treatment from care providers, family, friends, or employers.
4. Where you, or a person you know, have been willing to share sensitive information with a royal commission, what has worked to reassure you/them that you/they can tell your/their story?
5. Do you feel the law does enough to protect people's identities when they have given confidential information to a royal commission? What other legal protections would you like to see?
6. The Australian Government recently changed the law to give greater protections to people providing sensitive information to the Disability Royal Commission. Since the government changed the law, have you or someone you know been more willing to share sensitive information with the Disability Royal Commission? This may include written feedback, attending public hearings, or participating in private sessions.
7. What do you think would make you or someone you know more likely to provide sensitive information to a royal commission? This may include changes to the law, policies, or other initiatives.

Appendix B: Detailed analysis of common law remedies

Common law remedies

Common law remedies may be available to people who suffer detriment due to their engagement with a Royal Commission or Commission of Inquiry where the circumstances of the individual case satisfy the test at common law for a cause of action against the entity which occasioned the detriment. There is no common law *sui generis* tort or principle which exists for whistle-blowers or other witnesses. Whistle-blowers and witnesses will need to avail themselves of the ordinary principles and torts available to the community generally.

While the causes of action discussed below may be available, they were not developed specifically for the circumstances of an individual suffering detriment due to their engagement with a commission of inquiry. Even when the cause of action may be available, accessing the remedy requires litigation which may not be a practical or efficient solution for some types of detriment suffered. Additionally, the adequacy of common law remedies may be limited by financial means, knowledge of rights, time, access to legal assistance and a fear of further detriment.

Remedies available in contract law

If a person who has suffered detriment had entered into a contract with the entity which is causing them the detriment and that act of causing them detriment is in breach of a term in the contract, then the person may have a remedy in contract law. The essence of a contractual cause of action is the breach of, or failure to perform, a contractual term. It is not generally relevant to the existence of the cause of action that the motivation for the breach of contract may have been to cause detriment to someone for their engagement with a commission of inquiry.

Remedies for breach of contract

Under Australian law, damages for a breach of contract are ‘compensatory’.¹ That is to say that they compensate the plaintiff for damage suffered due to the breach, rather than penalise the defendant for their breach. The amount of damages is that dollar amount which places the plaintiff in the position they would be in had the contract been performed.²

Where the plaintiff can prove to the Court’s satisfaction that damages will be inadequate the Court has a discretion to order an equitable remedy such as an injunction preventing certain actions, or specific performance of terms of the contract.

¹ See *Whitfeld v De Lauret & Co Ltd* (1920) 29 CLR 1 at 80.

² *Robinson v Harman* (1848) 1 Ex 850; at 855; 154 ER 363; at 365 per Parke B (approved *Koufos v C Zarnikow Ltd* [1969] 1 AC 350; at 414 per Lord Pearce, 420 per Lord Upjohn; adopted *Wenham v Ella* (1972) 127 CLR 454; at 460 per Barwick CJ, at 471 per Gibbs J; *Commonwealth of Australia v Amann Aviation Pty Ltd* (1991) 174 CLR 64; at 80 per Mason CJ and Dawson J, 98 per Brennan J, 117 per Deane J, 134, 148 per Toohey J, 161 per McHugh J (dissenting judgment); 104 ALR 1 at 10-11, 22, 37, 50, 60-1, 70).

By way of example, a breach of contract will ordinarily arise where a service provider withholds or underperforms services due under a contract in retaliation for their client engaging with a commission of inquiry. The remedy would likely be damages for the cost to the client of the breach, for example, paying someone else to do the work not performed.

Some types of contract, such as employment contracts or contracts for disability services, are governed by legislation which modifies the common law to varying degrees.³ Such legislation often provides mechanisms for complaints management and resolution through which remedy for breach of contract may be obtained.⁴

Common law causes of action for disclosure of confidential or sensitive information

A person who engages with a commission of inquiry may provide sensitive information on a confidential basis to assist the commission's inquiry. The Commission may have powers to compel a person to provide this information.⁵ The person who provides this information may suffer detriment if the confidential information is divulged to another person or made public.

There is no general common law remedy for breach of privacy in Australia. The tort of negligence may arise in circumstances where the relationship between the parties establishes a duty of care.

The most helpful cause of action in this scenario might be an equitable action for breach of confidence.

Breach of confidence

There are 3 elements to an action for breach of confidence:

- the information is confidential
- the information was imparted in circumstances importing an obligation of confidence, and
- there has been an unauthorised use of the information.

³ For example, contracts for Specialist Disability Accommodation supports are covered by the Australian Consumer Law and *National Disability Insurance Scheme Act 2013* (Cth).

⁴ For example, complaints about any issue connected with supports or services provided by an NDIS provider can be made to the NDIS Quality and Safeguards Commissioner under Part 3 of the *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018* (Cth) and the Commissioner can require the NDIS provider to undertake remedial action in relation to the issue. See the discussion below on disability specific Commonwealth statutory / administrative remedies.

⁵ See for example s 2, *Royal Commission Act 1902* (Cth).

The English House of Lords has recognised that an obligation of confidence could be enforced against a government body which a person has disclosed confidential information to if the government body has given an undertaking to treat the information as confidential.⁶

Where a contract of employment or a contract for services expressly or impliedly protects confidential information exchanged by the parties to the contract, it is unlikely that a court of equity will intervene to impose obligations of confidentiality which do not align with the terms of the contract. Obligations of confidence can be enforced in circumstances where a person discloses confidential information to a government body, but not if the government body has given no undertaking to treat the information as confidential.⁷

Remedies for breach of confidence against Royal Commissions or commissions of inquiry.

Courts of equity have an inherent jurisdiction to enforce obligations of confidence by preventing actual or threatened misuse of confidential information and, in certain cases, remedy detriment through the payment of equitable compensation.

Generally, injunctions restraining the misuse of confidential information will be the appropriate remedy in these cases. Equitable monetary compensation (including for mental distress) could be awarded where an injunction would not be an effective remedy.⁸ Other common law remedies will generally not be available: Australian courts have rejected the availability of exemplary damages for breach of fiduciary duty and breach of confidence.⁹ Aggravated damages are unlikely to be available unless the defendant breached an obligation of confidence with a deliberate purpose of humiliating, embarrassing and distressing the plaintiff.¹⁰

Causes of action in tort

As with remedies available in contract, remedies for detriment suffered for engagement with a commission of inquiry will be available where the facts of the case give rise to the cause of action. In tort the cause of action is not dependent upon the existence of a breached contract but rather that a person has committed an action, a tort, which the law recognises as a 'wrong' for which a person is entitled to a remedy. Where a person who has engaged with a commission of inquiry suffers a detriment which is recognised by the common law as a tort, the person will have a cause of action and remedy against the tortfeasor who committed the tort.

⁶ *Re Smith Kline & French Laboratories Ltd* [1990] 1 AC 64.

⁷ *Re Smith Kline & French Laboratories Ltd* [1990] 1 AC 64.

⁸ *Giller v Procopets* (2008) 24 VR 1 at [149]-[153]; [424]

⁹ *Harris v Digital Pulse Pty Ltd* (2003) 56 NSWLR 298.

¹⁰ *Giller v Procopets* (2008) 24 VR 1

There are a number of torts which may be available to a person who suffers detriment or reprisal after engaging with a commission of inquiry. In the context of a detriment suffered by a person who engages with a commission of inquiry the torts can be divided between intentional and inadvertent or negligent torts.

Torts directed at harm suffered by a person directly:

- i. The three torts of trespass to the person: assault, battery and false imprisonment

Torts directed at harm to economic interests:

- ii. The tort of intentional interference with economic interests
- iii. The tort of conversion
- iv. The tort of trespass to goods

Torts directed at more general harm:

- v. The tort of Nuisance
- vi. The tort of Intimidation
- vii. The tort of Malicious prosecution
- viii. The tort of Misfeasance in public office
- ix. The tort of Defamation

Relevant torts which may be available for inadvertent detriment suffered by someone who has engaged with a commission of inquiry, for example inadvertently divulging a person's confidential information, could be:

- i. The tort of Negligence
- ii. The tort of Defamation

The torts listed above are not exhaustive. Because the ways in which a person can suffer detriment are not easily confined, it is accordingly not helpful to strictly confine the list of torts which may be available to a person who has suffered detriment. Ultimately, whether a cause of action is available depends on the facts of each case.

Remedies for tort

The remedy for a successful claim in tort is damages. The fundamental principle is that of *restitutio in integrum*, meaning that damages should be assessed so that they represent no more and no less than a plaintiff's actual loss.¹¹

Damages for tort can have economic and non-economic dimensions. Non-economic damages are to compensate for pain, disability, loss of enjoyment of life, disfigurement or loss of expectation of life. In personal injury matters, it has been recognised that in most cases it is not possible to measure accurately that part of the award that deals with non-economic loss so as to restore a plaintiff to the health enjoyed pre-injury. The principle has been qualified by the term 'so far as money can do so'.¹²

The economic loss a person may be able to be compensated for are the out-of-pocket expenses a person has suffered or will suffer to place them in the position they would be in but for the damage due to the actions of a defendant. This damage may be medical expenses, procuring additional or replacement services, or purchase of additional or replacement property.

The onus is on the plaintiff to prove the injury or loss for which the amount of damages is sought.¹³

Punitive damages

A court may also order punitive damages in an appropriate case. Punitive damages take the form of either aggravated or exemplary damages. Aggravated damages serve an additional compensatory purpose for the plaintiff and the exemplary damages have a punitive and deterrent nature by reference to the conduct of the defendant.¹⁴

The award of damages under these heads is discretionary but must bear some proportion to the circumstances to which it relates.¹⁵

Both aggravated and exemplary damages can be awarded in an appropriate case.

¹¹ *Livingstone v Rawyards Coal Co* (1880) 5 App Cas 25, Lord Blackburn at 39

¹² *Robinson v Harman* [1848] All ER Rep 383.

¹³ *Todorovic v Waller* (1981) 150 CLR 402 at 412 per Gibbs CJ and Wilson J.

¹⁴ *Lamb v Cotogno* (1987) 164 CLR 1; *State of NSW v Ibbett* (2005) 65 NSWLR 168 per Spigelman CJ at [83].

¹⁵ *Day v The Ocean Beach Hotel Shellharbour Pty Ltd* (2013) 85 NSWLR 335, per Leeming JA.

Aggravated damages

Aggravated damages may be awarded where a plaintiff suffers increased distress as a result of the way in which a defendant behaves at the time they committed the tort or thereafter to increase the plaintiff's suffering. The necessary conduct has been described as insulting or reprehensible or capable of causing the plaintiff to suffer indignity or outrage to his or her feelings.¹⁶

Where a plaintiff who has engaged with a commission of inquiry has suffered additional distress due to the actions of a defendant, for example where additional distress is suffered due to wilful and egregious denial of care services, a court may be willing to entertain a claim for aggravated damages.

Exemplary damages

Exemplary damages are awarded by a court to mark their disapproval of a defendant's conduct and deter similar conduct in the future.

The conduct can be expressed as 'conscious wrongdoing in contumelious disregard of another's rights'.¹⁷ The award of exemplary damages is accordingly rare in actions for negligent conduct.¹⁸ Relevant wrongdoing may include elements of malice, abuse of power or violence and must be based on something more than the court's mere disapproval of conduct.¹⁹ Exemplary damages have been awarded to discourage arbitrary exercise of executive power.²⁰

In the case where an entity commits a deliberate tort maliciously against a person in reprisal for that person's engagement with a commission of inquiry, may be an appropriate time when a court would be minded to make an award of exemplary damages.

Equitable remedies

Where monetary damages for loss suffered are not sufficient, the Court has discretion to order an equitable remedy.

¹⁶ *Uren v John Fairfax & Sons Pty Ltd* (1966) 117 CLR 118 per Windeyer J at 152.

¹⁷ *Whitford v De Lauret & Co Ltd* (1920) 29 CLR 71 at 77 per Knox CJ.

¹⁸ *Gray v Motor Accidents Commission* (1998) 196 CLR 1.

¹⁹ *Uren v John Fairfax & Sons Pty Ltd* (1966) 117 CLR 118 per Windeyer J at [11].

²⁰ *Rookes v Barnard* [1964] AC 1129, Lord Devlin at 1226; *State of NSW v Ibbett* (2006) 229 CLR 638 at [38]-[40].

Injunctions

It is clear that the causes of action in tort identified in this Part above are directed at specific identified harm which a person may have suffered. The causes of action do not generally offer protection from future harm, but rather compensation for harm already incurred. However, in certain circumstances, where other remedies are inadequate and the harm is likely to continue, the Court may be minded to grant an injunction.

Injunctions come in two forms, a mandatory injunction requiring a certain act to take place, or a prohibitory injunction to prevent an action from continuing.

Restitution

Restitution is not truly a remedy for a tort but rather a separate cause of action in equity. A plaintiff may have a choice to sue both in tort and to bring an action in restitution from the same facts. Restitution can be sued in as an alternative to a tort and will provide an alternative remedy where the defendant has profited from their tortious acts. In such a case the plaintiff will either receive the value of the tortious act to the defendant in restitution, or the plaintiff will be awarded the damage occasioned to the plaintiff by the defendant's tortious act in tort.

As a cause of action and remedy for a detriment suffered by a person for their engagement with a commission of inquiry, restitution may only rarely be relevant.

Appendix C: Comparison of royal commission and commission of inquiry legislation across jurisdictions

Protection of identities and information

This table (referenced in section 2.2 of the report) compares provisions for the protection of identities and information in the Commonwealth Royal Commissions Act with equivalent provisions contained in state and territory legislation.

As indicated in the report, the provisions included in the Commonwealth Act for protecting identities and information are as broad as those included in the equivalent State and Territory legislation.

Topic	<i>Royal Commissions Act 1902</i> (Cth)	<i>Royal Commissions Act 1991</i> (ACT)	<i>Royal Commissions Act 1923</i> (NSW)	<i>Inquiries Act 1945</i> (NT)	<i>Commissions of Inquiry Act 1950</i> (Qld)	<i>Royal Commissions Act 1917</i> (SA)	<i>Commissions of Inquiry Act 1995</i> (Tas)	<i>Inquiries Act 2014</i> (Vic)	<i>Royal Commissions Act 1968</i> (WA)
Prohibiting recording, publication and disclosure of evidence (generally)	A Commission may direct that any evidence given before it, the contents of any document or description of any thing, produced before, delivered to, or produced/	A Commission may, because of the confidential nature of any evidence etc or for any other reason, give directions	A Commissioner may give directions preventing or restricting publication of evidence or information given, or matters in documents produced, to or	N/A ²²	A Commission may order that evidence given before it or the contents of documents etc produced at the inquiry must not be	A Commission may, in the public interest or to prevent undue prejudice to any person, make an order forbidding the publication of	A Commission may, by order, prohibit or restrict the public reporting of a hearing or the publishing of any evidence taken or received by it, if the public interest of	A Commissioner may make an order (on grounds including that the Commissioner considers the prohibition or restriction appropriate: s 26(2)(e))	N/A ²³

²² The *Inquiries Act 1945* (NT) includes no general power to prevent publication. Information about hearings (other than those heard in private) may be published: s 17.

²³ The *Royal Commissions Act 1968* (WA) does not contain any specific power to prevent publication, but s 19B(3) makes clear that a Commission has power to direct that a sound recording of proceedings is not made, and s 19B(5) makes clear that a Commission has power to direct that a written record or transcript of proceedings, or evidence given before the Commission, or any documents etc produced to or obtained by the Commission, not be published. Publication in these circumstances constitutes contempt. A person will also be in contempt if they make a sound recording other than for the purpose of a fair report of the proceedings or with leave (s 19B(2)), or if they photograph or make a visual recording of proceedings without leave (s 19B(4)).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	delivered under a notice to the Commission must not be published or may only be published in specified circumstances (s 6D(3)). ²¹ Offence provisions apply for non-compliance.	prohibiting or restricting: <ul style="list-style-type: none"> publication of evidence given at a public or private hearing or of matters contained in documents lodged with or received in evidence by the Commission (s 28(3)(b)), and disclosure to some or all people present at a hearing of evidence given before, or contents of a document lodged with 	before the Commission (s 12B(1)). Offence provisions apply for non-compliance.		published (s 16). Non-compliance constitutes contempt.	evidence (s 16A(1)(b)). Offence provisions apply for non-compliance.	publication is outweighed by any other consideration (s 14(1)). Offence provisions apply for non-compliance.	prohibiting or restricting publication of any information or evidence given to the Commission for the purposes of the inquiry (s 26(1)(b)). Offence provisions apply for non-compliance. Equivalent provisions apply in respect of Boards of Inquiry (s 73) and Formal Reviews (s 106).	

²¹ For completeness, s 9(2) of the Act allows for regulations to be made providing for the custody of Royal Commission records, and disclosure of/access to those records while in the possession of the nominated custodian. This may affect the protection of evidence after the conclusion of the Commission.

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
		or received in evidence by, the Commission (s 28(3)(c)). Non-compliance would likely constitute contempt.							
Specific powers to prohibit publication of witness's name or identifying material²⁴	A Commission may direct that any information that might enable a person who has given evidence before the Commission to be identified must not be published or may only be published in	N/A ²⁵	N/A	N/A	N/A	A Commission may, in the public interest or to prevent undue prejudice or hardship to any person, make an order forbidding the publication of the name of a witness before the Commission	A Commission may, if satisfied it is necessary, permit a person to give evidence anonymously or under a pseudonym, or use any means it considers appropriate to prevent the identification of	A Commissioner may make an order (on grounds including that the Commissioner considers the prohibition or restriction appropriate: s 26(2)(e)) prohibiting or	N/A

²⁴ Although not all jurisdictions confer such specific powers on Commissions or equivalent bodies, it seems likely that the more general powers to prohibit publication etc of evidence/information will include the power to prevent publication of certain aspects of that evidence/information from being published eg a name or identifying information.

²⁵ It is an offence for a person to publish information that identifies someone else as a person who is or was a child or young person the subject of a 'childrens proceeding' (*Criminal Code 2002 (ACT)*, s 712A(1)). A child or young person is or was the subject of a 'childrens proceeding' in a range of circumstances, including if one of a list of orders is or was in force under the *Children and Young People Act 2008* (s 712A(5)). Such a person might have some involvement with a Commission such that this provision would be relevant (s 45 of the *Royal Commissions Act 1991 (ACT)* provides that a proceeding of a commission is a legal proceeding for the *Criminal Code 2002 (ACT)*, Ch 7; see also *Criminal Code 2002 (ACT)*, s 701(1)(c)).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	specified circumstances (s 6D(3)(c)). Offence provisions apply for non-compliance.					or a person alluded to in the course of the inquiry and any other material tending to identify the witness or person (s 16A(1)(c)). Offence provisions apply for non-compliance	the person (s 23B(a)-(b)).	restricting publication of any information that may enable the identify of a person who has given, or is to give, information to the Commission for the purposes of the inquiry to be ascertained (s 26(1)(a)). Offence provisions apply for non-compliance . Equivalent provisions apply in respect of Boards of Inquiry (s 73) and Formal Reviews (s 106).	
Prohibition on	N/A ²⁶	It is an offence for a	N/A	It is an offence for a	It is an offence for a	N/A	N/A	It is an offence for a Royal	N/A

²⁶ Although the Commonwealth Act does not contain express provisions to this effect, provisions of other Commonwealth legislation might apply indirectly to provide some protection in limited circumstances: see eg the requirements imposed on Commonwealth public servants by s 13 of the *Public Service Act 1999* (the PS Act), read with reg 2.1 of the *Public Service Regulations 1999*. It is conceivable that the secrecy offences in Div 122 of the *Criminal Code* may be engaged in

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
disclosure by Commission staff		Commissioner or member of staff (etc) of a Commission to, except in the exercise of a function under the Act, record or communicate to any person any information acquired by virtue of that role, or make use of such information, or produce or permit access to any person to a document provided		person who obtains information in the course of their functions under the Act to intentionally engage in conduct that results in the disclosure of the information (s 14A(1); certain exceptions in (3)).	Commissioner or member of staff etc of a Commission to disclose or provide access to 'confidential information' (including information about a person's affairs) obtained for the purposes of an inquiry (s 32B; certain exceptions in (2)). ²⁷			Commission officer to knowingly disclose information acquired through that role (s 43; certain exceptions apply). ²⁸ Equivalent provisions apply in respect of Boards of Inquiry (s 83) and Formal Reviews (s 115).	

particular circumstances, although this will depend heavily on factors such as whether the disclosure is made by a person falling under the jurisdiction of the PS Act, or whether the nature of the information is such that it is 'inherently harmful' or is likely to cause harm to Australia's interests. Section 60H of the Commonwealth Act also provides specific protections relevant to private sessions; see further below.

²⁷ Further protections apply in respect of 'protected information' (ie information obtained only by reason of a Commission's coercive powers, despite a separate obligation not to disclose), which must not be disclosed for a purpose under the Act unless the chairperson considers it reasonable in the circumstances (s 32A).

²⁸ It is also an offence for a person to whom information is given by a Royal Commission officer during the course of the inquiry to take advantage of the information to benefit the person or any other person (s 45).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
		under the Act (s 20).							
Availability of private hearings	A Commission may direct that evidence given before it must not be published, or must not be published except in such manner, and to such persons, as the Commission specifies (s 6D(3)).	If a Commission is satisfied it is desirable because of the confidential nature of any evidence or matter, or for any other reason, it may direct that a hearing or part of a hearing must take place in private and give directions as to the people who may be present (s 28(3)(a)).	The chairperson may direct that any part of an inquiry is to take place in private (s 12B(2)) and a Commissioner may give directions as to the persons who may be present at that part of the inquiry (s 12B(3)).	A Board or Commissioner may direct that the whole or any part of the proceedings on an inquiry under this Act be heard in private if the Board or Commissioner considers that it is desirable in the public interest so to do (s 16).	A Commission may refuse to allow the public or any portion of the public to be present at a sitting if it is in the public interest expedient so to do for reasons connected with the subject matter of the inquiry or the nature of the evidence to be given (s 16A).	A Commission may, in connection with the exercise of their functions, take evidence in public or in private (s 6). Where the Commission considers it desirable to exercise powers conferred by this section in the public interest, or in order to prevent undue prejudice or undue hardship to any person, it may, by order, direct that any persons specified (by	A Commission may refuse to admit the public or any person to a hearing if it is satisfied that the public interest in an open hearing is outweighed by any other consideration (s 13(2)). A Commission may, if satisfied it is necessary, identify a person giving evidence to the Commission as potentially vulnerable and apply any special evidentiary procedures, or	A Commissioner may make an order excluding any person from a proceeding of the Royal Commission on a range of grounds including if the Commissioner considers the exclusion appropriate (s 24(1)). Offence provisions apply for non-compliance Equivalent provisions apply in respect of Boards of Inquiry (s 71)	N/A ²⁹

²⁹ No express power is conferred to provide private hearings (although a Commission is empowered to 'do all such things as are necessary or incidental to the exercise of its function ... and to its terms of appointment' (s 7(1)), but the Act refers to 'the Commission's general powers to order that any evidence may be taken in private' (s 19(5)) and provides for the Commission to expressly authorise people to be present '[i]f a Commission is taking evidence in private, or conducting the inquiry in private' (s 19A(a)). The Commission is also not required to make known to any person the content or nature of any evidence taken in private (s 19A(b)).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
		If a hearing is being held in private, only certain people are permitted to attend (s 32).				name or otherwise) absent themselves from the place in which the Commission is conducting its inquiry during the whole or a specified part of the proceedings (s 16(1)(a)). Offence provisions apply for non-compliance .	measures, that may be appropriate (s 23B(c)).	and Formal Reviews (s 104).	
Availability of private sessions³⁰	A prescribed Commission (s 60AB) may hold a private session to obtain relevant information (s 60B).	N/A	N/A	N/A	N/A	N/A	A Commission may hold a private session to obtain relevant information (s 19A(1)).	N/A	N/A
Use of private	Information relating to a	N/A	N/A	N/A	N/A	N/A	Information relating to an	N/A	N/A

³⁰ A private session is not a hearing. A person appearing is not a witness, and does not give evidence. See *Royal Commissions Act 1902 (Cth)* s 60C(1)-(2); *Commissions of Inquiry Act 1995 (Tas)* s 19A(2)-(3).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
sessions information in report	natural person obtained at a private session or given to the Commission for the purposes of a private session (whether or not a private session was, or is to be, held) may only be included in a report or if it is also given in evidence to the Commission or under a summons, requirement or notice, or it is de-identified (s 6OJ).						individual that has been provided at a private session or given to the Commission solely for the purposes of a private session or proposed private session may only be included in a report or recommendation if it is also given in evidence to the Commission other than at a private session, or it does not allow identification of the individual (s 19(5)).		
Non-disclosure of private session material	It is an offence for a person to record, use or disclose information:	N/A	N/A	N/A	N/A	N/A	It is an offence for a person to record, use or disclose information:	N/A	N/A

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	<ul style="list-style-type: none"> obtained at, or that was given at, a private session, or given by a natural person to a Commission staff member for the purposes of a private session (whether or not a private session was, or is to be, held) and identifies the person who gave the information (s 6OH; certain exceptions in (c)).³¹ 						<ul style="list-style-type: none"> obtained at, or that was given at and obtained before or after, a private session, or given to the Commission for the purposes of a private session or proposed private session (s 19C(1); certain exceptions in (2) including if the information does not allow identification of a person who has not consented to its disclosure). 		

³¹ Sections 6ON and 6OP have the effect that certain information provided to specific Royal Commissions, other than for the purposes of a private session but on the basis that it would be kept confidential, will be within the scope of this offence provision.

Protection of witnesses

The below table (referenced in section 2.2 of the report) compares provisions for protections of witnesses and other people engaging with a royal commission in the Commonwealth Royal Commissions Act with equivalent provisions contained in state and territory equivalent legislation.

As indicated in the report, the provisions included in the Commonwealth Act for protecting identities and information are as broad as those included in the equivalent State and Territory legislation.

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
Protections for witnesses	Witnesses summoned or appearing before the Commission have the same protection, and are subject to the same liabilities in any civil or criminal proceeding, as witnesses in any case tried in the High Court (s 7(2)).	A person subpoenaed to attend or appearing before a Commission as a witness has the same protection, and is subject to the same liabilities, as a witness in proceedings in the Supreme Court (s 19(3)).	A witness summoned or appearing before the Commission has the same protection, and is subject to the same liabilities in any civil or criminal proceeding, as a witness in any case tried in the Supreme Court (s 11(3)).	A witness before a Board or a Commissioner has the same protection, and has the same liabilities in any civil or criminal proceeding, as a witness in any matter before the Supreme Court (s 15).	A witness summoned to attend or appearing before a Commission shall have the same protection, and be subject to the same liabilities, as a witness in any action or trial in the Supreme Court (s 14B).	A witness before the Commission has the same protection and immunities as a witness in proceedings before the Supreme Court (s 16B).	A witness who appears before a Commission has the same protection and immunity as a witness appearing before the Supreme Court (s 8(5)).	A person who gives information or evidence, or produces a document or other thing, to a Royal Commission has the same protection and immunity as a witness has in proceedings in the Supreme Court (s 39(4)).	A witness summoned to attend or appearing before the Commission has the same protection, and is subject to the same liabilities in any civil or criminal proceeding, as a witness in any case tried in the Supreme Court (s 31(2)).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
								Equivalent provisions apply in respect of Boards of Inquiry (s 79) and Formal Reviews (s 111).	
Protections for witnesses under examination or cross-examination by legal representative	Any witness examined or cross-examined by a legal representative before a Commission has the same protection, and is subject to the same liabilities, as if examined by any Commissioner (s 6FA).	N/A	Any witness examined or cross-examined by a legal representative before a Commission has the same protection, and is subject to the same liabilities, as if examined by the Commissioner (s 7).	N/A	Any witness examined or cross-examined by a legal representative before a Commission has the same protection, and is subject to the same liabilities, as if examined by a Commissioner (s 21).	N/A	N/A	N/A	Any witness examined or cross-examined by a legal representative before a Commission has the same protection, and is subject to the same liabilities, as if examined by a Commissioner (s 22).
Protections for others engaging with a Commission	Any person who appears, or is authorised to be present, at a private session	N/A	A person who voluntarily provides a document or other thing or	N/A	N/A	N/A	A person who appears, or is authorised to be, at a	A person who gives information or evidence, or produces	N/A

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	has the same protection, and is to subject to the same liabilities in any civil or criminal proceeding, as a witness in any case tried in the High Court (6OF(1)).		information to a Commission has the same protection, and is subject to the same liabilities in any civil or criminal proceeding, as a witness in any case tried in the Supreme Court (s 11(3) and (4)).				private session has the same protection and immunity, and is subject to the same liabilities in respect of any civil or criminal proceedings, as a witness has in a case tried in the Supreme Court (s 19B(2)).	a document or other thing, to a Royal Commission has the same protection and immunity as a witness has in proceedings in the Supreme Court (s 39(4)). Equivalent provisions apply in respect of Boards of Inquiry (s 79) and Formal Reviews (s 111).	
Statements made by witnesses not admissible in	A statement or disclosure made by a natural person in the course of giving	Any information, document or other thing obtained	If the letters patent declare that this provision applies to an	A statement or disclosure made by any witness to a Board or	A statement or disclosure (but not a document etc produced by a	A statement or disclosure made by any witness in answer to any	Evidence given by a person before a Commission	Any answer, information, document or thing given or	A statement or disclosure made by a witness in answer to any

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
evidence in other proceedings ³²	evidence before a Commission or in writing in response to a notice, or the production of a document or other thing pursuant to a summons, requirement or notice, is not admissible in evidence against the person in any civil or criminal proceedings in a Commonwealth, State or Territory court (s 6DD(1)), except in proceedings for an offence against the Act (s 6DD(2)).	under a subpoena is not admissible in evidence against the person in a civil or criminal proceeding, except in certain circumstances including in offence proceedings relating to an administration of justice offence (<i>Criminal Code 2002</i> (ACT), chapter 7) (s 24). ³³	inquiry (s 17(5)), an answer made, or document or other thing produced by a witness to or before a Commission is not admissible in evidence against the person in civil or criminal proceedings (s 17(2)), except in certain circumstances including in proceedings for an offence against the Act (s 17(3)).	Commissioner is not, except in proceedings for an offence arising under this Act, admissible in evidence against the witness in any civil or criminal proceedings in any court (s 13).	witness: s 14A(2)) made by any witness in answer to any question put to the witness by a Commission or any Commissioner or before a Commission is not (except in certain circumstances including proceedings in respect of contempt of the Commission or an offence against certain administration of justice offences in the Criminal Code) be admissible	question put to the witness by the Commission or any Commissioner shall not (except in proceedings for an offence against this Act) be admissible in evidence against the witness in any civil or criminal proceedings in any court (s 16).	is not admissible in subsequent legal proceedings other than proceedings against that person under this Act (s 21).	produced to a Royal Commission by a person (and the fact that occurred) is neither admissible in evidence nor otherwise able to be used against the person in any other proceedings (exceptions include proceedings for an offence against the Act, and perjury) (s 40(1)).	question put to the witness by a Commission or any Commissioner shall not (except in contempt proceedings or proceedings for an offence against this Act) be admissible in evidence against the witness in any civil or criminal proceedings in any Court in this State (s 20).

³² For completeness, and as mentioned previously, there are commonly exceptions to protection of information for a Commission to provide information or evidence to a law enforcement agency (where the information may relate to a breach of a law): see eg *Royal Commissions Act 1923* (NSW), s 12A.

³³ Section 45 of the *Royal Commissions Act 1991* (ACT) provides that a proceeding of a commission is a legal proceeding for the *Criminal Code 2002* (ACT), ch 7; see also *Criminal Code 2002* (ACT), s 701(1)(c).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	The same protection is given to persons giving evidence under the law of another country or outside Australia (s 7C).				in evidence against the witness in any civil or criminal proceedings (s 14A(1)).			Equivalent provisions apply in respect of Boards of Inquiry (s 80) and Formal Reviews (s 112).	
Statements made by others engaging with a Commission not admissible in evidence in other proceedings	A statement or disclosure made by, or on behalf of, a natural person at a private session, or the production of a document or other thing by or on behalf of the person at a private session, or a statement or disclosure made to a Commission for the purposes of a private session (whether or not that session	N/A	N/A	N/A	N/A	N/A	A statement or disclosure made by a person at a private session or to a member of a Commission solely for the purposes of a private session or proposed private session, or the production of a document or other thing by the	N/A	N/A

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	was, or is to be held) is not admissible in evidence against the person in any civil or criminal proceedings in a Commonwealth, State or Territory court (s 6OE(1) and (1A)), except in proceedings for an offence against the Act (s 6OE(2)).						person at a private session, is not admissible in evidence against a person in any civil or criminal proceedings (except proceedings for an offence under s 19C) in any court (s 19B(1)).		
Threatening or insulting witness					A person who wilfully threatens or insults any witness or person summoned to attend before a Commission shall be guilty of contempt of the Commission (s 9(2)(c)(iv)).				A person who threatens or insults any witness summoned to attend or appearing before a Commission is in contempt of the Commission (s 15A(1)(a)(iii)).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
Bribery of witness	It is an offence for a person to offer/provide a benefit to another person on the basis that any person called or to be called as a witness will give false testimony or withhold true testimony, or to attempt to induce a person to give testimony in that manner, or to seek any benefit for themselves or any other person on the same basis (s 6I(1)). ³⁴ Equivalent for someone not complying with	It is an offence for a person to offer/provide a benefit to another person with the intention that the other person or a third person will not attend as a witness or give false or misleading evidence or withhold true evidence (<i>Criminal Code</i> 2002 (ACT), s 707(1)). It is an offence for a person to seek/obtain a benefit for the person or another	N/A	N/A	It is an offence for a person to offer/provide a benefit to another person on the basis that any person called or to be called as a witness will give false testimony or withhold true testimony, or to attempt to induce a person to give testimony in that manner, or to seek any benefit for themselves or any other person on the same basis (<i>Criminal Code</i> (Qld), s 127). ³⁵	N/A	N/A	N/A	It is an offence for a person to offer/provide a benefit to another person on the basis that any person called or to be called as a witness will give false testimony or withhold true testimony, or to attempt to induce a person to give testimony in that manner, or to seek any benefit for themselves or any other person on the same basis (s 25).

³⁴ Section 6I also applies to persons engaging with a Commission through a private session (s 6OC(5)).

³⁵ Section 22 of the *Commissions of Inquiry Act 1950* (Qld) clarifies that s 127 of the *Criminal Code* (Qld) applies to a Commission.

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	a requirement to produce a document/thing or provide information/a statement: s 6l(2).	person with the intention of, or intention of inducing etc, the person or another person to not attend as a witness or give false or misleading evidence or withhold true evidence (<i>Criminal Code 2002</i> (ACT), s 707(2)).							
Fraud on witness	It is an offence for a person to practise any fraud or deceit, or intentionally make or exhibit any statement, representation, token, or writing knowing it to be false, to any person called or to be called as a	It is an offence for a person to deceive someone else with the intention that the other person or a third person will not attend as a witness, or give false or misleading	N/A	N/A	It is an offence for a person to practise any fraud or deceit, or knowingly make or exhibit any false statement, representation, token, or writing, to any person called or to be called	N/A	N/A	N/A	It is an offence for a person to practise any fraud or deceit on, or knowingly make or exhibit any false statement, representation, token, or writing to, any person called or to be called as a

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	witness with intent to affect the testimony of that person as a witness, or to any person given or to be given a notice to produce information or a statement with intent to affect the person's response (s 6J(1)). ³⁶ Equivalent where intent that a person will not comply with a requirement to produce a document etc pursuant to a summons, requirement or notice under s 2: s 6J(2).	evidence or withhold true evidence (<i>Criminal Code</i> 2002 (ACT), s 708).			as a witness with intent to affect the testimony of that person as a witness (<i>Criminal Code</i> (Qld), s 128). ³⁷				witness with intent to affect the testimony of that person as a witness (s 26).

³⁶ Section 6J also applies to persons engaging with a Commission through a private session (s 6OC(5)).

³⁷ Section 22 of the *Commissions of Inquiry Act 1950* (Qld) clarifies that s 128 of the *Criminal Code* (Qld) applies to a Commission.

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
Preventing a witness from attending or producing evidence	It is an offence to intentionally prevent a person who has been summoned to attend as a witness from attending or from producing anything in evidence pursuant to the summons to attend (s 6L(1)). ³⁸ Equivalent for preventing a person required by a notice to give a document, thing, information or a statement from	It is an offence for a person to cause or threaten to cause a detriment to someone else with the intention that the other person or a third person will not attend as a witness, give false or misleading evidence, or withhold true evidence (<i>Criminal Code</i> 2002 (ACT), s 709). It is an offence for a	N/A	N/A	It is an offence for a person to wilfully prevent or attempt to prevent any person summoned as a witness from attending or producing anything in evidence pursuant to the subpoena or summons (<i>Criminal Code</i> (Qld), s 130). ³⁹	N/A	It is an offence for a person to intentionally prevent or try to prevent a person required by a Commission to appear before it from attending as a witness, or from producing any document or thing to the Commission (s 33(1)). ⁴⁰	N/A ⁴¹	It is an offence for a person to wilfully prevent or endeavour to prevent any person summoned as a witness from attending or producing anything in evidence pursuant to the summons to attend (s 28).

³⁸ Section 6L also applies to persons engaging with a Commission through a private session (s 60C(5)).

³⁹ Section 22 of the *Commissions of Inquiry Act 1950* (Qld) clarifies that s 130 of the *Criminal Code* (Qld) applies to a Commission.

⁴⁰ This provision also applies to persons engaging with a Commission through a private session (s 19C(4)).

⁴¹ Section 49 creates a general offence for conduct that 'hinders, obstructs or causes serious disruption to a proceeding of the Royal Commission'. Preventing a witness from attending might come within this provision.

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	doing so: s 6L(2).	person to intentionally prevent someone from attending as a witness or answering a question the person is required by law to answer (<i>Criminal Code</i> 2002 (ACT), s 710). It is an offence for a person to intentionally prevent someone else from producing in evidence a document or other thing required by law to be produced (<i>Criminal Code</i>							

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
		2002 (ACT), s 711). See also ss 707(1) and (2) and 708 (referred to above).							
Causing injury/detriment to witness	It is an offence for a person to use, cause or inflict any violence, punishment, damage, loss or disadvantage to any person for or on account of the person having appeared as a witness, any evidence given, or the person having produced a document or	It is an offence for a person to cause or threaten to cause a detriment to a witness because of something done by the witness in the relevant proceeding and in the belief that the witness was a witness who had done that	N/A	N/A	N/A ⁴³	N/A	It is an offence for a person to use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage to another person for or on account of that other person having given evidence or produced or	N/A	It is an offence for a person to use, cause, inflict, or procure, any violence, punishment, damage, loss, or disadvantage to any other person for or on account of that person having appeared as a witness, or for or on account of any evidence given before

⁴³ The *Criminal Code* (Qld) includes an offence provision titled 'Retaliation against or intimidation of judicial officer, juror, witness etc.' (s 119B) which applies in 'judicial proceedings'. Section 119 defines 'judicial proceeding' as including 'any proceeding had or taken in or before any court, tribunal or person, in which evidence may be taken on oath'. A Commission may be covered as 'a proceeding before any person' (ie a Commissioner). While s 22 of the *Commissions of Inquiry Act 1950* (Qld) 'remov[es] any doubt' as to the application of other administration of justice offences included in the same part as s 119B, it does not expressly cover s 119B.

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	thing or given information or a statement pursuant to a summons, requirement or notice (s 6M). ⁴²	thing (<i>Criminal Code</i> 2002 (ACT), s 712(1)).					surrendered any document or thing, or any evidence given by that other person or any document or thing produced or surrendered by that other person to a Commission (s 33(2)). ⁴⁴		any Commission (s 29).
Specific injury/detriment: prejudice to witness's employment	It is an offence for an employer to dismiss any employee, or prejudice any employee's employment, for or on account of the employee having appeared as a witness or given	N/A	N/A	N/A	It is an offence for an employer to dismiss any employee from employment, or prejudice any employee in employment, for or on account of the employee	N/A	It is an offence for an employer to dismiss an employee from employment or prejudice an employee in employment for or on account of	It is an offence for a person who conducts a business or other undertaking to take or threaten to take detrimental action	It is an offence for an employer to dismiss an employee from employment, or prejudices an employee's employment, for or on account of the employee having appeared as a

⁴² Section 6M also applies to persons engaging with a Commission through a private session (s 6OC(5)).

⁴⁴ This provision also applies to persons engaging with a Commission through a private session (s 19C(4)).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
	evidence, or produced a document or thing, or given information or a statement, pursuant to a summons, requirement or notice, to a Royal Commission (s 6N(1)). ⁴⁵				having appeared as a witness before a Commission, or for or on account of the employee having given evidence before a Commission (s 23).		that employee having given evidence or produced or surrendered any document or thing, or for or on account of any evidence given by that employee before a Commission or any document or thing produced or surrendered by that employee to a Commission (s 33(3)). ⁴⁶	(including dismissal: s 3) against a worker of the business or other undertaking because the worker has (lawfully: see s 51(3)) given information to a Royal Commission the person believes that the worker has given or will give information to a Royal Commission (s 51(1)). Equivalent provisions apply in respect of	witness before a Commission, or for or on account of the employee having given evidence before a Commission (s 30(1)).

⁴⁵ Section 6N also applies to persons engaging with a Commission through a private session (s 6OC(5)).

⁴⁶ This provision also applies to persons engaging with a Commission through a private session (s 19C(4)).

Topic	<i>Royal Commissions Act 1902 (Cth)</i>	<i>Royal Commissions Act 1991 (ACT)</i>	<i>Royal Commissions Act 1923 (NSW)</i>	<i>Inquiries Act 1945 (NT)</i>	<i>Commissions of Inquiry Act 1950 (Qld)</i>	<i>Royal Commissions Act 1917 (SA)</i>	<i>Commissions of Inquiry Act 1995 (Tas)</i>	<i>Inquiries Act 2014 (Vic)</i>	<i>Royal Commissions Act 1968 (WA)</i>
								Boards of Inquiry (s 91) and Formal Reviews (s 121).	

Appendix D: Commonwealth legislative frameworks protecting disclosers

The below table (referenced in section 4.1 of the report) summarises the protections afforded under a number of Commonwealth Acts that may have relevance to a Royal Commission.

Topic	<i>Public Interest Disclosure Act 2013 (Cth)</i>	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>	<i>Aged Care Act 1997 (Cth)</i>	<i>Corporations Act 2001 (Cth)</i>	<i>Fair Work (Registered Organisations) Act 2009 (Cth)</i>	<i>Taxation Administration Act 1953 (Cth)</i>
Disclosures qualifying for protection	<p>The disclosure of information qualifies for protection if (s 26):</p> <ul style="list-style-type: none"> • It is by a person who has been, or is, a public official; and • The recipient of the disclosure is one of the entities listed s 26 being either: <ul style="list-style-type: none"> ○ In the case of internal disclosure, an internal recipient or supervisor of the discloser, ○ In the case of an external disclosure any person other than a foreign public official ○ In the case of an emergency disclosure any person other than a foreign public official 	<p>The disclosure of the information by the ‘discloser’ qualifies for protection under this Division if (s 73ZA(2)):</p> <ul style="list-style-type: none"> • the disclosure is made to one of the persons listed in s 73ZA(2)(a); and • the discloser informs the person to whom the disclosure is made of the discloser’s name before making the disclosure; and • the discloser has reasonable grounds to suspect that the information indicates that an NDIS provider has, or may have, 	<p>The disclosure of the information by the ‘discloser’ qualifies for protection under this Division if (s 54-4(2)):</p> <ul style="list-style-type: none"> • the disclosure is made to one of the persons listed in s 54-4(2)(a); and • the discloser informs the person to whom the disclosure is made of the discloser’s name before making the disclosure; and • the discloser has reasonable grounds to suspect that the information indicates that a reportable incident has occurred; and <p>the discloser makes the disclosure in good faith.</p>	<p>The disclosure of information qualifies for protection if (s 1317AA):</p> <ul style="list-style-type: none"> • It is made to ASIC/APRA or a prescribed body in circumstances where: <ul style="list-style-type: none"> ○ It is by an ‘eligible whistleblower’ (discussed further below); and ○ It is in relation to a regulated entity as prescribed by s 1317AAB (being, for example a company or constitutional corporation); and ○ The discloser has reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances in relation to the regulated entity; or 	<p>The disclosure of information qualifies for protection if it is by a ‘discloser’ listed in s 337A(1)(a) to one of the entities listed in s 337A(1)(b) and the discloser has reasonable grounds to suspect that the information indicates instances of disclosable conduct by:</p> <ul style="list-style-type: none"> • the organisation or a branch of the organisation; or • an officer or employee of the organisation or of a branch of the organisation. <p>Note: A disclosure may be made to the discloser’s lawyer and qualify for protection: s 337A(3).</p>	<p>There are two categories or qualifying disclosures under the TAA (s 14ZZT).</p> <p>The disclosure of information by a ‘discloser’ qualifies for protection if:</p> <ul style="list-style-type: none"> • the discloser is an ‘eligible whistleblower’ in relation to an entity; and • the disclosure is made to the Commissioner; and • the discloser considers that the information may assist the Commissioner to perform his or her functions or duties under a taxation law in relation to the entity or an associate of the entity.

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	<ul style="list-style-type: none"> ○ In the case of legal practitioner disclosure, a legal practitioner • The requirements set out in s 26 are met for the respective recipient. 	<ul style="list-style-type: none"> contravened a provision of this Act; and • the discloser makes the disclosure in good faith. 		<ul style="list-style-type: none"> ○ The discloser has reasonable grounds to suspect the if it indicates that any an officer/employee of the regulated entity has engaged in conduct that is an offence against or contravention of the acts set out at s 1317AA(5(c). • it is made to an 'eligible recipient' in relation to the regulated entity (which are prescribed at s 1317AAC) in circumstances where: <ul style="list-style-type: none"> ○ It is by an 'eligible whistleblower' (discussed further below); and ○ The discloser has reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances in relation to the regulated entity; or ○ The discloser has reasonable grounds 		<p>The disclosure of information by a 'discloser' qualifies for protection if:</p> <ul style="list-style-type: none"> • the discloser is an 'eligible whistleblower' in relation to an entity; and • the disclosure is made to an eligible recipient in relation to the entity; and • the discloser has reasonable grounds to suspect that the information indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of the entity or an associate of the entity; and • the discloser considers that the information may assist the eligible recipient to perform functions or duties in relation to the tax affairs of the entity or an associate of the entity.

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				<p>to suspect the if it indicates that any an officer/employee of the regulated entity has engaged in conduct that is an offence against or contravention of the acts set out at s 1317AA(5(c).</p> <p>Note: A disclosure may be made to the discloser's lawyer and qualify for protection: s 1317AA(4)</p> <p>Note: Disclosures which concern personal work-related grievances which do not concern victimisation are not protected: s 1317AADA.</p> <p>Note: There are further provisions which provide eligible protections for public interest disclosure, and emergency disclosure to members of Parliament and journalists: s 1317AAD.</p>		Note: A disclosure may be made to the discloser's lawyer and qualify for protection – s 14ZZT(3).
Eligible disclosers	A person who has been, or is, a public official (s 26) (the discloser)	The protection applies to a disclosure of information by a person (the	The protection applies to a disclosure of information by a person (the discloser) who is, or was, any of	<p>'Eligible whistleblowers' are (s 1317AAA):</p> <ul style="list-style-type: none"> an officer of the regulated entity 	Eligible 'disclosers' are (s 337A(1)(a)): <ul style="list-style-type: none"> an officer or former officer of an organisation, or of a 	An individual is an 'eligible whistleblower' if the individual is, or has been, any of the following (s 14ZZU):

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		<p>discloser) who is, in relation to an NDIS provider, any of the following (s 73ZA(1)):</p> <ul style="list-style-type: none"> • if the NDIS provider is a body corporate—an officer or employee of the body corporate, or a person who has a contract for the supply of goods or services to, or on behalf of, the body corporate; • if the NDIS provider is an unincorporated association—a member of the committee of management or an employee of the association, or a person who has a contract for the supply of goods or services to, or on behalf of, the association; 	<p>the following (s 54-4(1)):</p> <ul style="list-style-type: none"> • an approved provider; • one of an approved provider's key personnel; • a staff member of an approved provider; • a residential care recipient of an approved provider, or a family member, carer, representative, advocate (including an independent advocate) of the recipient, or another person who is significant to the recipient; • a volunteer who provides care or services for an approved provider. 	<ul style="list-style-type: none"> • an employee of the regulated entity • an individual who supplies goods/services to the regulated entity or an employee of the same • an individual who is an associate of the regulated entity • a relative of an individual referred to above • a dependant of an individual referred to above (or a spouse of the individual) • any individual prescribed by the regulations for the purpose of this paragraph. <p>Note: Where a regulated entity is a superannuation entity 'eligible whistleblowers' are also the trustee, custodian, investment manager of the</p>	<ul style="list-style-type: none"> branch of an organisation; • an employee or former employee of an organisation, or of a branch of an organisation; • a member or former member of an organisation, or of a branch of an organisation; • a person who has or had a contract for the supply of services or goods to, or any other transaction with, an organisation or a branch of an organisation; • a person who has or had a contract for the supply of services or goods to, or any other transaction with, an officer or employee of an organisation or of a branch of an organisation who is or was acting on behalf of the organisation or branch; 	<ul style="list-style-type: none"> • an officer (within the meaning of the Corporations Act 2001) of the entity; • an employee of the entity; • an individual who supplies services or goods to the entity (whether paid or unpaid); • an employee of a person that supplies services or goods to the entity (whether paid or unpaid); • an individual who is an associate (within the meaning of section 318 of the Income Tax Assessment Act 1936) of the entity; • a spouse or child of an individual referred to in any of the above paragraphs; • a dependant of an individual referred to in any of the paragraphs above, or of such an individual's spouse; • an individual prescribed by the

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		<ul style="list-style-type: none"> • if the NDIS provider is a partnership—a partner in or an employee of the partnership, or a person who has a contract for the supply of goods or services to, or on behalf of, the partnership; • in any case—a person with disability who is receiving a support or service from the NDIS provider, or a nominee, family member, carer, independent advocate or significant other of that person. 		entity, an officer of a corporate trustee, an employee of the trustee/corporate trustee, an individual who supplies goods/services to a trustee/corporate trustee (or an employee of the same), as well as relatives and dependants if those persons: s 1317AAA(f).	<ul style="list-style-type: none"> • an officer, former officer, employee or former employee of a person referred to in dot points 4 or 5. 	regulations for the purposes of this paragraph in relation to the entity.
Eligible recipients	<p>The recipient of the disclosure is one of the entities listed in s 26 being either (s 26):</p> <ul style="list-style-type: none"> • In the case of internal disclosure, an internal recipient or supervisor of the discloser, 	<p>A 'discloser' may make a disclosure to one of the following (s 73ZA(2)(a)):</p> <ul style="list-style-type: none"> • the Commissioner of the NDIS • the Quality and 	<p>A 'discloser' may make a disclosure to one of the following (s 54-4(2)(a)):</p> <ul style="list-style-type: none"> • the Quality and Safety Commissioner; • the approved provider; 	Disclosures which attract protection on the basis of being made to an 'eligible recipient' under s 1317AA can be, in relation to a regulated entity that is a body corporate, to any of (s 1317AAC):	<p>Disclosures must be made to one of the following to be eligible (s 337A(1)(b)):</p> <ul style="list-style-type: none"> • the Fair Work Commissioner or a member of the staff assisting the Commissioner 	<p>Each of the following is an eligible recipient in relation to an entity (s 14ZZV):</p> <ul style="list-style-type: none"> • an auditor, or a member of an audit team conducting an audit, of the entity;

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	<ul style="list-style-type: none"> • In the case of an external disclosure any person other than a foreign public official • In the case of an emergency disclosure any person other than a foreign public official • In the case of legal practitioner disclosure, a legal practitioner 	<p>Safeguards Commission;</p> <ul style="list-style-type: none"> • the National Disability Insurance Scheme Launch Transition Agency; • if the NDIS provider is a body corporate—a member of the key personnel of the body corporate; • if the NDIS provider is an unincorporated association—a member of the key personnel of the association; • if the NDIS provider is a partnership—a partner. 	<ul style="list-style-type: none"> • one of the approved provider's key personnel; • a staff member of an approved provider; • another person authorised by the approved provider to receive reports of reportable incidents; • if the disclosure is reported to another person in accordance with the Quality of Care Principles—that person; • a police officer. 	<ul style="list-style-type: none"> • an officer or senior manager of the body corporate or a related body corporate; • an auditor, or a member of an audit team conducting an audit, of the body corporate or a related body corporate; • an actuary of the body corporate or a related body corporate; • a person authorised by the body corporate to receive disclosures that may qualify for protection under this Part. <p>Note: Where a regulated entity is a superannuation entity an eligible recipient may be an officer, auditor, actuary, or trustee of the entity, as well as the director of a body corporate that is a trustee, or a person authorised by the trustee to receive disclosures: s 1317AAC(2)</p>	<ul style="list-style-type: none"> • the General Manager of the FWC • an FWC Member or a member of the staff of the FWC • the Australian Building and Construction Commissioner referred to in subsection 15(1) of the <i>Building and Construction Industry (Improving Productivity) Act 2016</i> • a Deputy Australian Building and Construction Commissioner referred to in subsection 15(2) of the <i>Building and Construction Industry (Improving Productivity) Act 2016</i> • an Australian Building and Construction Inspector referred to in subsection 66(1) of the <i>Building and Construction Industry (Improving</i> 	<ul style="list-style-type: none"> • a registered tax agent or BAS agent who provides tax agent services or BAS services to the entity; • a person authorised by the entity to receive disclosures that may qualify for protection under this Part; • a person or body prescribed for the purposes of this paragraph in relation to the entity. <p>If the entity is a body corporate, each of the following is an eligible recipient in relation to the entity:</p> <ul style="list-style-type: none"> • a director, secretary or senior manager (within the meaning of the <i>Corporations Act 2001</i>) of the body corporate; • any other employee or officer of the body corporate who has functions or duties that relate to the tax affairs of the body corporate.

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					Productivity) Act 2016; • a member of the staff of the Office of the Fair Work Ombudsman.	<p>If the entity is a trust, each of the following is an eligible recipient in relation to the entity:</p> <ul style="list-style-type: none"> • a trustee of the trust; • a person authorised by a trustee of the trust to receive disclosures that may qualify for protection under this Part. <p>If the entity is a partnership, each of the following is an eligible recipient in relation to the entity:</p> <ul style="list-style-type: none"> • a partner in the partnership; • a person authorised by a partner in the partnership to receive disclosures that may qualify for protection under this Part.
Confidentiality of discloser's identity	A person commits an offence if another person (the discloser) makes a public interest disclosure; and the first person discloses information that (s 20):			A person (the first person) contravenes this subsection if (s 1317AAE): • another person makes disclosure of information that qualifies for protection and;		A person commits an offence if another person (the discloser) makes a disclosure of information that qualifies for protection and the first person

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	<ul style="list-style-type: none"> • was obtained by any person in that person's capacity as a public official; and • is likely to enable the identification of the second person as a person who has made a public interest disclosure <p>Penalty: Imprisonment for 6 months or 30 penalty units, or both</p>			<ul style="list-style-type: none"> • The first person discloses the identity of the discloser or information that is likely to lead to the identification of the discloser; and • The confidential information is obtained because of the disclosure; and • The disclosure was made to ASIC/APRA/AFP/ a legal practitioner, a person or body prescribed/a Commonwealth (or State/Territory) authority for the purpose of assisting the authority in the performance of its functions or with the consent of the person. 		<p>discloses any of the following (s 14ZZW(1)):</p> <ul style="list-style-type: none"> • the identity of the discloser; • information that is likely to lead to the identification of the discloser. <p>The information must have been obtained by the first person directly or indirectly because of the qualifying disclosure the first person's disclosure must not authorised.</p> <p>Penalty: Imprisonment for 6 months or 60 penalty units, or both.</p> <p>Disclosures are authorised if (s 14ZZW(2)):</p> <ul style="list-style-type: none"> • made to the Commissioner; or • made to a member of the Australian Federal Police (within the meaning of the <i>Australian Federal Police Act 1979</i>); or • made to a legal practitioner for the purpose of obtaining

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						<p>legal advice or legal representation in relation to the operation of this Part; or</p> <ul style="list-style-type: none"> • is made to a person or body prescribed by the regulations for the purposes of this paragraph; or • made with the consent of the discloser. <p>The offence provision does not apply if the disclosure by the first person is not of the identity of the discloser and (s 14ZZW(3));</p> <ul style="list-style-type: none"> • it is reasonably necessary for the purposes of investigating misconduct, or an improper state of affairs or circumstances, to which the qualifying disclosure relates; and • the first person takes all reasonable steps to reduce the risk

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						that the discloser will be identified.
Disclosure that qualifies for protection not actionable	<p>If an individual makes a public interest disclosure (s 10):</p> <ul style="list-style-type: none"> the individual is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the public interest disclosure; no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the individual on the basis of the public interest disclosure. The person has absolute privilege in proceedings for defamation in respect of the public interest disclosure; and a contract to which the individual is a party must not be terminated on the basis that the public interest disclosure constitutes a breach of the contract. 		<p>If a person makes a disclosure that qualifies for protection (s 54-5):</p> <ul style="list-style-type: none"> the person is not subject to any civil or criminal liability for making the disclosure, and no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure. the person has qualified privilege (being qualified privilege from proceedings for defamation in the absence of malice) in respect of the disclosure; and a contract to which the person is a party may not be terminated on the basis that the disclosure 	<p>If a person makes a disclosure that qualifies for protection (s 1317AB):</p> <ul style="list-style-type: none"> the person is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure, and no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure. the person has qualified privilege (being qualified privilege from proceedings for defamation in the absence of malice) in respect of the disclosure; and a contract to which the person is a party may not be terminated on the basis that the disclosure constitutes a breach of the contract. 	<p>If a person makes a disclosure that qualifies for protection (s 337B):</p> <ul style="list-style-type: none"> the person is not subject to any civil or criminal liability for making the disclosure, and no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure. the person has qualified privilege (being qualified privilege from proceedings for defamation in the absence of malice) in respect of the disclosure; and a contract to which the person is a party may not be terminated on the basis that the disclosure constitutes a breach of the contract. 	<p>If a person makes a disclosure that qualifies for protection under this Part (s 14ZZX(1)):</p> <ul style="list-style-type: none"> the person is not subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure; and no contractual or other remedy may be enforced, and no contractual or other right may be exercised, against the person on the basis of the disclosure; and if the disclosure was a disclosure of information to the Commissioner—the information is not admissible in evidence against the person in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in

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			constitutes a breach of the contract. Note: malice includes ill will to the person concerned or any other improper motive: s 54-5(4).			respect of the falsity of the information. The person has qualified privilege in respect of the disclosure; and a contract to which the person is a party may not be terminated on the basis that the disclosure constitutes a breach of the contract (s 14ZZX(2)).
Victimisation and reprisals prohibited	A person (the first person) takes a reprisal against another person (the second person) if (s 13(1)): <ul style="list-style-type: none"> the first person causes (by act or omission) any detriment to the second person; and when the act or omission occurs, the first person believes or suspects that the second person or any other person made, may have made or proposes to make a public interest disclosure; and 	See s73ZC below.	See s 54-6 below. <i>Ensuring staff member informants are not victimised</i> An approved provider is responsible for ensuring, as far as reasonably practicable, compliance with paragraphs 54-5(1)(b) and (2)(b) and subsections 54-6(1) and (2) in relation to a person who (s 54-8(1)):	<i>Actually causing detriment to another person</i> A person (the first person) contravenes this subsection if (s 1317AC(1)): <ul style="list-style-type: none"> the first person engages in conduct; and the first person's conduct causes any detriment to another person (the second person); and when the first person engages in the conduct, the first person believes or suspects that the second person or any other person made, may have made, proposes to make or could make a 	A person (the first person) takes a reprisal against another person (the second person) if (s 337BA): <ul style="list-style-type: none"> the first person causes (by act or omission) any detriment to the second person; and when the act or omission occurs, the first person: <ul style="list-style-type: none"> believes or suspects that the second person or any other person made, may have made, 	See s 14ZZY below.

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	<ul style="list-style-type: none"> that belief or suspicion is the reason, or part of the reason, for the act or omission. <p>A person does not take a reprisal against another person to the extent that the person takes administrative action that is reasonable to protect the other person from detriment (s 13(3)).</p>		<ul style="list-style-type: none"> is a staff member of the approved provider; and makes a disclosure that qualifies for protection under section 54-4. <p>Note: This responsibility covers not only compliance by the approved provider itself with the relevant provisions of sections 54-5 and 54-6 but extends to the approved provider ensuring as far as reasonably practicable that there is also compliance by others, such as:</p> <ul style="list-style-type: none"> other staff members of the approved provider; and other parties with whom the approved provider contracts (for example, an employment agency). 	<p>disclosure that qualifies for protection under this Part; and</p> <ul style="list-style-type: none"> the belief or suspicion referred to in paragraph (c) is the reason, or part of the reason, for the conduct. <p>Note: it is also an offence to threaten to cause detriment to another person: s1317AC(2).</p>	<p>proposes to make or could make a disclosure that qualifies for protection; or</p> <p>should have known that the second person or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection.</p>	

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Circumstances in which a compensation order or other remedy may be made	<p>If the Federal Court or Federal Circuit and Family Court of Australia (Division 2) is satisfied that a person took or threatened to take, or is taking or threatening to take, a reprisal against a person the Court may make</p> <ul style="list-style-type: none"> • a compensation order under s 14(1) • an injunction under s 15(1). <p>If the Federal Court or Federal Circuit and Family Court of Australia (Division 2) is satisfied that:</p> <ul style="list-style-type: none"> • another person (the respondent) has taken, or is taking, a reprisal against the applicant; and • the applicant is or was employed in a particular position with the respondent; and • the reprisal wholly or partly consists, or consisted, of the respondent terminating, or purporting to 		<p>If a court is satisfied that (s 54-5(6)):</p> <ul style="list-style-type: none"> • a person (the employee) is employed in a particular position under a contract of employment with another person (the employer); and • the employee makes a disclosure that qualifies for protection; and • the employer purports to terminate the contract of employment on the basis of the disclosure; <p>the court may:</p> <ul style="list-style-type: none"> • order that the employee be reinstated in that position or a position at a comparable level; or • order the employer to pay the employee an amount instead of reinstating the employee, if the 	<p>A court may make an order if a person (s 1317AD(1)):</p> <ul style="list-style-type: none"> • engages in conduct which causes detriment to another person (or the threat of); and • suspects that the other person or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection, and • that belief or suspicion is the reason, or part of the reason, for the conduct. <p>The court may also make an order if a person is or was an officer or employee of a body corporate and the person (s 1317AD(2)):</p> <ul style="list-style-type: none"> • aided, abetted, counselled or procured the detrimental conduct; or • induced, whether by threats or promises or otherwise, the detrimental conduct; or • was in any way, by act or omission, 	<p>If the Federal Court or Federal Circuit and Family Court of Australia (Division 2) is satisfied that a person took or threatened to take, or is taking or threatening to take, a reprisal against a person (the target), the court may make orders under section 337BB(a).</p>	<p>A court may make an order if a person (s 14ZZZ(1)):</p> <ul style="list-style-type: none"> • engages in conduct that causes detriment to another person or constitutes the making of a threat to cause any such detriment to another person, and • where the person believes or suspects that the other person or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection, and • that belief or suspicion is the reason, or part of the reason, for the conduct. <p>The court may also make an order if a person (s 14ZZZ(2)):</p> <ul style="list-style-type: none"> • aided, abetted, counselled or procured the

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	<p>terminate, the applicant's employment; the Court may order reinstating of the person (s 16).</p>		<p>court considers it appropriate to make the order.</p>	<p>directly or indirectly, knowingly concerned in, or party to, the detrimental conduct; or</p> <ul style="list-style-type: none"> conspired with others to effect the detrimental conduct. <p>This also applies where the person is a body corporate with a duty of care to prevent, or to take reasonable steps to prevent, detrimental conduct by a third person and they fail in that duty in part or whole (s 1317AD(2A)).</p>		<p>detrimental conduct; or</p> <ul style="list-style-type: none"> induced, whether by threats or promises or otherwise, the detrimental conduct; or was in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the detrimental conduct; or conspired with others to effect the detrimental conduct. <p>This also applies where the person is a body corporate with a duty of care to prevent, or to take reasonable steps to prevent, detrimental conduct by a third person and they fail in</p>

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						that duty in part or whole ((s 14ZZZ(2A))).
Detriment	<p>Detriment includes any disadvantage, (without limitation) (s 13(2)):</p> <ul style="list-style-type: none"> • dismissal of an employee; • injury of an employee in his or her employment; • alteration of an employee's position to his or her detriment; • discrimination between an employee and other employees of the same employer. 		<p>Detriment includes (without limitation) any of the following (s 1317ADA):</p> <ul style="list-style-type: none"> • dismissal of an employee; • injury of an employee in his or her employment; • alteration of an employee's position or duties to his or her disadvantage; • discrimination between an employee and other employees of the same employer; • harassment or intimidation of a person; • harm or injury to a person, including psychological harm; • damage to a person's property; • damage to a person's reputation; • damage to a person's business or financial position; any other damage to a person 	<p>Detriment includes, without limitation (s 337BA(2)):</p> <ul style="list-style-type: none"> • dismissal of an employee; • injury of an employee in his or her employment; • alteration of an employee's position to his or her detriment; • discrimination between an employee and other employees of the same employer; • harassment or intimidation of a person; • harm or injury to a person, including psychological harm; • damage to a person's property; • damage to a person's reputation. 	<p>Detriment includes, without limitation (s 337BA(2)):</p> <ul style="list-style-type: none"> • dismissal of an employee; • injury of an employee in his or her employment; • alteration of an employee's position to his or her detriment; • discrimination between an employee and other employees of the same employer; • harassment or intimidation of a person; • harm or injury to a person, including psychological harm; • damage to a person's property; • damage to a person's reputation. 	<p>Detriment includes (without limitation) any of the following (s 14ZZZAA):</p> <ul style="list-style-type: none"> • dismissal of an employee; • injury of an employee in his or her employment; • alteration of an employee's position or duties to his or her disadvantage; • discrimination between an employee and other employees of the same employer; • harassment or intimidation of a person; • harm or injury to a person, including psychological harm; • damage to a person's property; • damage to a person's reputation; • damage to a person's business or financial position; • any other damage to a person.

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Compensation and other remedies—orders that may be made	<p>The court may make any one or more of the following orders:</p> <ul style="list-style-type: none"> • an order requiring the respondent (either together with another person or an employer) to compensate the applicant for loss, damage or injury as a result of the reprisal or threat: s 14. • an order granting an injunction, on such terms as the Court thinks appropriate: s 15. • an order requiring the respondent to apologise to the target for taking, or threatening to take, the reprisal s:15. • an order that the applicant be reinstated: s 16. • any other order the Court thinks appropriate: s 15. <p>The court may also make an order against any other person who:</p>	<p>If a person contravenes subsection 73ZC(1) or (2) by causing or threatening to cause detriment to a person and another person suffers damage because of the contravention, the person in contravention is liable to compensate the other person for the damage: s 73ZD.</p>	<p>If a person contravenes subsection 54-6(1) or (2) by causing or threatening to cause detriment to a person and another person suffers damage because of the contravention, the person in contravention is liable to compensate the other person for the damage: s 54-7.</p>	<p>The court may make any of the following orders (s 1317AE):</p> <ul style="list-style-type: none"> • an order requiring the first person to compensate the second person, or any other person, for loss, damage or injury suffered as a result of the detrimental conduct; • if the court is satisfied that the first person engaged in the detrimental conduct in connection with the first person's position as an employee: <ul style="list-style-type: none"> ◦ an order requiring the first person to compensate the second person, or any other person, for a part of loss, damage or injury as a result of the detrimental conduct, and an order requiring the first person's employer to compensate the second person, or any other person, for a part of loss, 	<p>The court may make any one or more of the following orders (s 337BB(1)):</p> <ul style="list-style-type: none"> • an order requiring the respondent to compensate the target for loss, damage or injury as a result of the reprisal or threat • an order granting an injunction, on such terms as the Court thinks appropriate, to prevent, stop or remedy the effects of the reprisal or threat; • an order requiring the respondent to apologise to the target for taking, or threatening to take, the reprisal; • if the target is or was employed in a particular position with the respondent and the reprisal wholly or partly consists, or consisted, of the respondent terminating, or 	<p>The court may make any of the following orders (s 14ZZZA(1)):</p> <ul style="list-style-type: none"> • an order requiring the first person to compensate the second person, or any other person, for loss, damage or injury suffered as a result of the detrimental conduct; • if the court is satisfied that the first person engaged in the detrimental conduct in connection with the first person's position as an employee: <ul style="list-style-type: none"> ◦ an order requiring the first person to compensate the second person, or any other person, for a part of loss, damage or injury as a result of the detrimental conduct, and an order requiring the first person's

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	<ul style="list-style-type: none"> • aided, abetted, counselled or procured the conduct; or • induced the conduct, whether through threats or promises or otherwise; or • been in any way (directly or indirectly) knowingly concerned in or a party to the conduct; or conspired with others to effect the conduct: s 15. 			<p>damage or injury as a result of the detrimental conduct; or</p> <ul style="list-style-type: none"> ○ an order requiring the first person and the first person's employer jointly to compensate the second person, or any other person, for loss, damage or injury suffered as a result of the detrimental conduct; or ○ an order requiring the first person's employer to compensate the second person, or any other person, for loss, damage or injury as a result of the detrimental conduct; • an order granting an injunction, on such terms as the court thinks appropriate, to prevent, stop or remedy the effects of the detrimental conduct; 	<p>purporting to terminate, the target's employment—an order that the target be reinstated in that position or a position at a comparable level;</p> <ul style="list-style-type: none"> • if the Court thinks it is appropriate—an order requiring the respondent to pay exemplary damages to the target; • any other order the Court thinks appropriate. <p>The court may also make an order against any other person who (s 337BB(6)):</p> <ul style="list-style-type: none"> • aided, abetted, counselled or procured the conduct; or • induced the conduct, whether through threats or promises or otherwise; or • failed to fulfil a duty to prevent, refrain from, or take reasonable steps to ensure other persons 	<p>employer to compensate the second person, or any other person, for a part of loss, damage or injury as a result of the detrimental conduct; or</p> <ul style="list-style-type: none"> ○ an order requiring the first person and the first person's employer jointly to compensate the second person, or any other person, for loss, damage or injury suffered as a result of the detrimental conduct; or ○ an order requiring the first person's employer to compensate the second person, or any other person, for loss,

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				<ul style="list-style-type: none"> • an order requiring the first person to apologise to the second person, or any other person, for engaging in the detrimental conduct; • if the second person is or was employed in a particular position and the detrimental conduct wholly or partly consists, or consisted, of the termination, or purported termination, of the second person's employment—an order that the second person be reinstated in that position or a position at a comparable level; • if the court thinks it is appropriate—an order requiring the first person to pay exemplary damages to the second person, or any other person; any other order the court thinks appropriate.	under the person's control prevented or refrained from, the conduct; or <ul style="list-style-type: none"> • been in any way (directly or indirectly) knowingly concerned in or a party to the conduct; or • conspired with others to effect the conduct. 	damage or injury as a result of the detrimental conduct; <ul style="list-style-type: none"> • an order granting an injunction, on such terms as the court thinks appropriate, to prevent, stop or remedy the effects of the detrimental conduct; • an order requiring the first person to apologise to the second person, or any other person, for engaging in the detrimental conduct; • if the second person is or was employed in a particular position and the detrimental conduct wholly or partly consists, or consisted, of the termination, or purported termination, of the second person's employment—an order that the second person be reinstated in that position or a

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						position at a comparable level; <ul style="list-style-type: none"> • if the court thinks it is appropriate—an order requiring the first person to pay exemplary damages to the second person, or any other person; • any other order the court thinks appropriate.
Protection of identifying information	A person commits an offence if another person (the discloser) makes a public interest disclosure; and the first person discloses or uses information that (s 20(1)-(2)): <ul style="list-style-type: none"> • was obtained by any person in that person's capacity as a public official; and • is likely to enable the identification of the second person as a person who has made a public interest disclosure Penalty: Imprisonment for 6 months or 30 penalty units, or both.		If a person reports a reportable incident to an approved provider, the provider is responsible for taking reasonable measures to ensure that the fact that the person was the maker of the report is not disclosed, except to one or more of the following (s 54-8(2)): <ul style="list-style-type: none"> • the Quality and Safety Commissioner; • a person, authority or court to which the approved provider is required by a law of the Commonwealth or 	If a person (the discloser) makes a disclosure of information that qualifies for protection under this Part, the discloser or any other person is not to be required (s 1317AG): <ul style="list-style-type: none"> • to disclose to a court or tribunal: <ul style="list-style-type: none"> ○ the identity of the discloser; or ○ information that is likely to lead to the identification of the discloser; or • to produce to a court or tribunal a document containing: <ul style="list-style-type: none"> ○ the identity of the discloser; or ○ information that is likely to lead to the 		If a person (the discloser) makes a disclosure of information that qualifies for protection under this Part, the discloser or any other person is not to be required (s 14ZZZB): <ul style="list-style-type: none"> • to disclose to a court or tribunal: <ul style="list-style-type: none"> ○ the identity of the discloser; or ○ information that is likely to lead to the identification of the discloser; or • to produce to a court or tribunal a document containing:

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	<p>Disclosures and uses are authorised if (s 20(3)):</p> <ul style="list-style-type: none"> • it is for the purposes of the PID Act • it is in connection with the performance of a function conferred on the Ombudsman by s 5A of the <i>Ombudsman Act 1976</i> • it is in connection with the performance of a function conferred on the IGIS by section 8A of the <i>Inspector-General of Intelligence and Security Act 1986</i>; • it is for the purpose of a law of the Commonwealth or State or Territory. • It is made with the consent of the discloser. • It has previously been lawfully published. 		<p>a State or Territory to disclose the fact;</p> <ul style="list-style-type: none"> • one of the approved provider's key personnel; • a police officer. <p>If a person reports a reportable incident to someone (the report recipient) who is (s 54-8(3)):</p> <ul style="list-style-type: none"> • one of an approved provider's key personnel; or • a person authorised by an approved provider to receive reports of reportable incidents; <p>the provider is responsible for taking reasonable measures to ensure that the report recipient does not disclose the fact that the person was the maker of the report, except to the provider or a person described above.</p>	<p>identification of the discloser;</p> <p>except where:</p> <ul style="list-style-type: none"> • it is necessary to do so for the purposes of giving effect to this Part; or • the court or tribunal thinks it necessary in the interests of justice to do so. 		<ul style="list-style-type: none"> ○ the identity of the discloser; or ○ information that is likely to lead to the identification of the discloser; <p>except where:</p> <ul style="list-style-type: none"> • it is necessary to do so for the purposes of giving effect to this Part; or • the court or tribunal thinks it necessary in the interests of justice to do so.
Costs only if proceedings	Applies if the applicant makes the application for an order under s 14, 15 or			Applies if the claimant makes the application for an order under s 1317AE.	Applies if the target makes the application for an order under s	Applies if the claimant makes the application for an order under s

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instituted vexatiously	16. The applicant must not be ordered to pay costs incurred by another party unless (s 18): <ul style="list-style-type: none">the court is satisfied that the target instituted the proceedings vexatiously or without reasonable cause; orthe court is satisfied that the target’s unreasonable act or omission caused the other party to incur the costs.			The claimant must not be ordered to pay costs incurred by another party unless (s 1317AH): <ul style="list-style-type: none">the court is satisfied that the claimant instituted the proceedings vexatiously or without reasonable cause; orthe court is satisfied that the claimant’s unreasonable act or omission caused the other party to incur the costs.	337BC. The target must not be ordered to pay costs incurred by another party unless (s 337BC): <ul style="list-style-type: none">the court is satisfied that the target instituted the proceedings vexatiously or without reasonable cause; orthe court is satisfied that the target’s unreasonable act or omission caused the other party to incur the costs.	14ZZZA. The claimant must not be ordered to pay costs incurred by another party unless (s 14ZZZC): <ul style="list-style-type: none">the court is satisfied that the claimant instituted the proceedings vexatiously or without reasonable cause; orthe court is satisfied that the claimant’s unreasonable act or omission caused the other party to incur the costs.
Civil penalties		<i>Actually causing detriment to another person</i> A person (the first person) contravenes this subsection if (s 73ZC(1)): <ul style="list-style-type: none">the first person engages in conduct; andthe first person’s conduct causes any detriment to another person	<i>Actually causing detriment to another person</i> A person (the first person) contravenes this subsection if (s 54-6(1)): <ul style="list-style-type: none">the first person engages in conduct; andthe first person’s conduct causes any detriment to another person (the second person); and	<i>Actually causing detriment to another person</i> A person (the first person) contravenes this subsection if (s 1317AC(1)): <ul style="list-style-type: none">the first person engages in conduct; andthe first person’s conduct causes any detriment to another person (the second person); andwhen the first person engages in the conduct, the first person believes or suspects that the second person or any	<i>Taking a reprisal</i> A person (the first person) must not take a reprisal against another person if the first person’s belief or suspicion that a person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part is the reason, or part of the reason, for taking the reprisal: s 337BD (1).	

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	<p>(the second person); and</p> <ul style="list-style-type: none"> the first person intends that his or her conduct cause detriment to the second person; and the first person engages in his or her conduct because the second person or a third person made a disclosure that qualifies for protection under this Division. <p>Civil penalty: 500 penalty units.</p> <p><i>Threatening to cause detriment to another person</i></p> <p>A person (the first person) contravenes this subsection if (s 73ZC(2)):</p> <ul style="list-style-type: none"> the first person makes to another person (the 	<p>(the second person); and</p> <ul style="list-style-type: none"> the first person intends that the conduct cause detriment to the second person; and the first person engages in the conduct because the second person or a third person made a disclosure that qualifies for protection under section 54-4. <p>Civil penalty: 500 penalty units.</p> <p><i>Threatening to cause detriment to another person</i></p> <p>A person (the first person) contravenes this subsection if (s 54-6(2)):</p> <ul style="list-style-type: none"> the first person makes to another person (the second person) a threat to cause any detriment to the second person or to a third person; and the first person: 	<p>the first person intends that the conduct cause detriment to the second person; and</p> <p>Civil penalty: 500 penalty units.</p> <p><i>Threatening to cause detriment to another person</i></p> <p>A person (the first person) contravenes this subsection if (s 54-6(2)):</p> <ul style="list-style-type: none"> the first person makes to another person (the second person) a threat to cause any detriment to the second person or to a third person; and the first person: 	<p>other person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part; and</p> <ul style="list-style-type: none"> the belief or suspicion referred to in paragraph (c) is the reason, or part of the reason, for the conduct. <p>Maximum Civil Penalty: 5000 penalty units: s 1317G(3).</p> <p><i>Threatening to cause detriment to another person</i></p> <p>A person (the first person) contravenes this subsection if (s 1317AC(2)):</p> <ul style="list-style-type: none"> the first person makes to another person (the second person) a threat to cause any detriment to the second person or to a third person; and the first person: <ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or 	<p>Civil penalty: 100 penalty units.</p> <p><i>Threatening to take a reprisal</i></p> <p>A person (the first person) must not make a threat to another person (the second person) to take a reprisal against the second person or a third person if (s 337BD(3)):</p> <ul style="list-style-type: none"> the first person: <ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or is reckless as to the second person fearing that the threat will be carried out; and the first person's belief or suspicion that a person made, may have made, proposes to make or could make a disclosure that 	

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		<p>second person) a threat to cause any detriment to the second person or to a third person; and</p> <ul style="list-style-type: none"> the first person: <ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or is reckless as to causing the second person to fear that the threat will be carried out; and the first person makes the threat because a person: <ul style="list-style-type: none"> makes a disclosure that qualifies for protection under this Part; or may make a disclosure 	<ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or is reckless as to causing the second person to fear that the threat will be carried out; and the first person makes the threat because a person: <ul style="list-style-type: none"> makes a disclosure that qualifies for protection under section 54-4; or may make a disclosure that would qualify for protection under section 54-4. <p>Civil penalty: 500 penalty units.</p> <p>Note: the threat may be express or implied,</p>	<ul style="list-style-type: none"> is reckless as to causing the second person to fear that the threat will be carried out; and the first person makes the threat because a person: <ul style="list-style-type: none"> makes a disclosure that qualifies for protection under this Part; or may make a disclosure that would qualify for protection under this Part. <p>Maximum Civil Penalty: 5000 penalty units: s 1317G(3).</p> <p>Note: the maximum civil penalty for a body corporate is 50,000 penalty units: s 1317G(4). There is also scope for higher penalties to be applied where the benefit derived by the second person is significant: s 1317G(3)-(4).</p>	<p>qualifies for protection under this Part is the reason, or part of the reason, for making the threat.</p> <p>Civil penalty: 100 penalty units.</p> <p>Note: the threat may be express or implied, or conditional or unconditional.</p>	

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		that would qualify for protection under this Division. Civil penalty: 500 penalty units. Note: the threat may be express or implied, or conditional or unconditional: s 73ZC(3).	or conditional or unconditional: s 54-6(3).			
Criminal offences	<p><i>Taking a reprisal</i></p> <p>A person commits an offence if the person takes a reprisal against another person: s 19(1).</p> <p>Penalty: Imprisonment for 2 years or 120 penalty units, or both.</p> <p><i>Threatening to take a reprisal</i></p> <p>A person (the first person) commits an offence if (s 19(3):</p>			<p><i>Actually causing detriment to another person</i></p> <p>A person (the first person) commits an offence if (s 1317AC(1)):</p> <ul style="list-style-type: none"> • the first person engages in conduct; and • the first person's conduct causes any detriment to another person (the second person); and • when the first person engages in the conduct, the first person believes or suspects that the second person or any other person made, may 	<p><i>Taking a reprisal</i></p> <p>A person commits an offence if (s 337BE(1)):</p> <ul style="list-style-type: none"> • the person takes a reprisal against another person; and • the person's belief or suspicion that a person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part is the reason, or part of the reason, 	<p><i>Actually causing detriment to another person</i></p> <p>A person (the first person) commits an offence if (s 14ZZY(1)):</p> <ul style="list-style-type: none"> • the first person engages in conduct; and • the first person's conduct causes any detriment to another person (the second person); and • when the first person engages in the conduct, the first

Topic	<i>Public Interest Disclosure Act 2013 (Cth)</i>	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>	<i>Aged Care Act 1997 (Cth)</i>	<i>Corporations Act 2001 (Cth)</i>	<i>Fair Work (Registered Organisations) Act 2009 (Cth)</i>	<i>Taxation Administration Act 1953 (Cth)</i>
	<ul style="list-style-type: none"> the first person makes a threat to another person (the second person) to take a reprisal against the second person or a third person; and the first person: <ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or is reckless as to the second person fearing that the threat will be carried out. <p>Penalty: Imprisonment for 2 years or 120 penalty units, or both.</p> <p>Note: the threat may be express or implied, or conditional or unconditional.</p>			<p>have made, proposes to make or could make a disclosure that qualifies for protection under this Part; and</p> <ul style="list-style-type: none"> the belief or suspicion referred to in paragraph (c) is the reason, or part of the reason, for the conduct. <p>Penalty: 5000 penalty units: s 1311B(1).</p> <p><i>Threatening to take a reprisal</i></p> <p>A person (the first person) commits an offence if (s 1317AC(2)):</p> <ul style="list-style-type: none"> the first person makes to another person (the second person) a threat to cause any detriment to the second person or to a third person; and the first person: <ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or is reckless as to causing the second person to fear that 	<p>for taking the reprisal.</p> <p>Imprisonment for 2 years or 120 penalty units, or both.</p> <p><i>Threatening to take a reprisal</i></p> <p>A person (the first person) commits an offence if (s 337BE(3)):</p> <ul style="list-style-type: none"> the first person makes a threat to another person (the second person) to take a reprisal against the second person or a third person; and the first person: <ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or is reckless as to the second person fearing that the threat will be carried out; and the first person's belief or suspicion 	<p>person believes or suspects that the second person or any other person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part; and</p> <ul style="list-style-type: none"> the belief or suspicion referred to in the paragraph above is the reason, or part of the reason, for the conduct. <p>Penalty: Imprisonment for 2 years or 240 penalty units, or both.</p> <p><i>Threatening to cause detriment to another person</i></p> <p>A person (the first person) commits an offence if (s 14ZZY(2)):</p> <ul style="list-style-type: none"> the first person makes to another person (the second person) a threat to cause any detriment to the second person

Topic	<i>Public Interest Disclosure Act 2013 (Cth)</i>	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>	<i>Aged Care Act 1997 (Cth)</i>	<i>Corporations Act 2001 (Cth)</i>	<i>Fair Work (Registered Organisations) Act 2009 (Cth)</i>	<i>Taxation Administration Act 1953 (Cth)</i>
				<p>the threat will be carried out; and</p> <ul style="list-style-type: none"> the first person makes the threat because a person: <ul style="list-style-type: none"> makes a disclosure that qualifies for protection under this Part; or may make a disclosure that would qualify for protection under this Part. <p>Penalty: 5000 penalty units: s 1311B(1).</p> <p>Note: Failure to comply with this subsection is an offence (see subsection 1311(1)).</p>	<p>that a person made, may have made, proposes to make or could make a disclosure that qualifies for protection under this Part is the reason, or part of the reason, for making the threat.</p> <p>Imprisonment for 2 years or 120 penalty units, or both.</p> <p>Note: the threat may be express or implied, or conditional or unconditional.</p>	<p>or to a third person; and</p> <ul style="list-style-type: none"> the first person: <ul style="list-style-type: none"> intends the second person to fear that the threat will be carried out; or is reckless as to causing the second person to fear that the threat will be carried out; and the first person makes the threat because a person: <ul style="list-style-type: none"> makes a disclosure that qualifies for protection under this Part; or may make a disclosure that would qualify for protection under this Part. <p>Penalty: Imprisonment for 2 years or 240 penalty units, or both.</p> <p>Note: the threat may be express or implied,</p>

Topic	<i>Public Interest Disclosure Act 2013 (Cth)</i>	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>	<i>Aged Care Act 1997 (Cth)</i>	<i>Corporations Act 2001 (Cth)</i>	<i>Fair Work (Registered Organisations) Act 2009 (Cth)</i>	<i>Taxation Administration Act 1953 (Cth)</i>
						or conditional or unconditional.
Interaction between civil proceedings and criminal offences	A person may bring proceedings under section 14, 15 or 16 in relation to the taking of a reprisal, or the threat to take a reprisal, even if a prosecution for an offence against section 19 in relation to the reprisal or threat has not been brought, or cannot be brought (s 19A).			To avoid doubt, a person may bring civil proceedings for an order under section 1317AE, or civil proceedings for a contravention of subsection 1317AC in relation to particular conduct, even if a prosecution for a criminal offence against section 1317AC in relation to that conduct has not been brought, or cannot be brought (s 1317AF).	A person may bring civil proceedings under section 337BB, or civil proceedings for a contravention of subsection 337BD(1) or (3), in relation to the taking of a reprisal, or the threat to take a reprisal, even if a prosecution for a criminal offence against section 337BE in relation to the reprisal or threat has not been brought, or cannot be brought (s 337BF).	To avoid doubt, a person may bring civil proceedings under section 14ZZZA in relation to conduct even if a prosecution for a criminal offence against section 14ZZY in relation to the conduct has not been brought, or cannot be brought (s 14ZZZD).
Protections have effect despite other Commonwealth laws	The protections in s 14, 15 and 16 have effect despite any other provision of a law of the Commonwealth, unless (s 24): <ul style="list-style-type: none">• the provision is enacted after the commencement of this section; and• the provision is expressed to have effect despite this Part or that section.				The protections in s 337B and 337BB has effect despite any other provision of a law of the Commonwealth, unless (s 337BG): <ul style="list-style-type: none">• the provision is enacted after the commencement of this section; and• the provision is expressed to have effect despite this Part or that section.	

Topic	<i>Public Interest Disclosure Act 2013 (Cth)</i>	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>	<i>Aged Care Act 1997 (Cth)</i>	<i>Corporations Act 2001 (Cth)</i>	<i>Fair Work (Registered Organisations) Act 2009 (Cth)</i>	<i>Taxation Administration Act 1953 (Cth)</i>
Other relevant provisions		<p>Part 3A, Division 8 provides a number of compliance and enforcement protections to investigate and enforce the disclosure protections outlined above.</p> <p>In addition, the National Disability Insurance Scheme (Code of Conduct) Rules 2018 (NDIS Code of Conduct) s 6 requires all NSI Providers and persons employed or otherwise engaged by an NDIS provider to:</p> <ul style="list-style-type: none"> • act with respect for individual rights to freedom of expression, self-determination and decision-making in accordance with applicable laws and conventions; and 				

Topic	<i>Public Interest Disclosure Act 2013 (Cth)</i>	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>	<i>Aged Care Act 1997 (Cth)</i>	<i>Corporations Act 2001 (Cth)</i>	<i>Fair Work (Registered Organisations) Act 2009 (Cth)</i>	<i>Taxation Administration Act 1953 (Cth)</i>
		<ul style="list-style-type: none"> • respect the privacy of people with disability; and • provide supports and services in a safe and competent manner, with care and skill; and • act with integrity, honesty and transparency; and • promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports and services provided to people with disability; and • take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people 				

Topic	<i>Public Interest Disclosure Act 2013 (Cth)</i>	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>	<i>Aged Care Act 1997 (Cth)</i>	<i>Corporations Act 2001 (Cth)</i>	<i>Fair Work (Registered Organisations) Act 2009 (Cth)</i>	<i>Taxation Administration Act 1953 (Cth)</i>
		<p>with disability; and</p> <ul style="list-style-type: none"> • take all reasonable steps to prevent and respond to sexual misconduct. <p>Failure to comply with the NDIS Code of Conduct carries a civil penalty of 250 penalty units: s 73V(3).</p>				

Appendix E: List of previous Royal Commissions

This table provides a complete list of Commonwealth Royal Commissions since Federation in 1901, specifying the date on which Letters Patent were issued for each Royal Commission, and the date on which the Final Report of the Commission was presented to the Governor-General. Note, anticipated end dates have been included in relation to current Royal Commissions.

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission appointed to inquire into and report upon the arrangements made for the transport of troops returning from service in South Africa in the S.S. "Drayton Grange"...	12 August – 9 October 1902
Royal Commission on sites for the seat of government of the Commonwealth	14 January–17 July 1903
Royal Commission on the Bonuses for Manufactures Bill	15 January 1903–2 March 1904
Royal Commission on the butter industry	11 April 1904–27 July 1905
Royal Commission on the Navigation Bill	29 June 1904–14 June 1906
Royal Commission on the affray at Goaribari Island, British New Guinea, on the 6th of March, 1904	25 July 1904–13 September 1904
Royal Commission on customs and excise tariffs	12 December 1904–9 August 1907
Royal Commission on old-age pensions	27 February 1905–19 June 1906
Royal Commission on the tobacco monopoly	30 December 1905–14 June 1906
Royal Commission on ocean shipping service	11 January–29 June 1906
British New Guinea—Royal Commission of inquiry into the present conditions, including the method of government, of the Territory of Papua, and the best means for their improvement	27 August 1906–20 February 1907
Royal Commission on secret drugs, cures, and foods	11 December 1906–8 August 1907
Royal Commission on postal services	22 June 1908–5 October 1910

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission on insurance	15 December 1908–1 July 1910
Royal Commission on stripper harvesters and drills	15 December 1908–30 July 1909
Royal Commission on Tasmanian customs leakage	30 December 1910–3 October 1911
Royal Commission on the sugar industry	24 October 1911–4 December 1912
Royal Commission on the pearl-shelling industry	3 April 1912–30 August 1916
Royal Commission on the fruit industry	12 April 1912–8 October 1914
Royal Commission appointed to inquire into certain charges against Mr. Henry Chinn	4 January–27 November 1913
Royal Commission on Northern Territory railways and ports	28 March 1913–24 June 1914
Royal Commission on powellised timber	19 December 1913–8 October 1914
Royal Commission upon the Commonwealth electoral law and administration	20 January 1914–14 July 1915
Royal Commission on meat export trade	5 June–2 December 1914
Royal Commission on food supplies and trade and industry during the war	31 August–16 December 1914
Royal Commission on mail services and trade development between Australia and the New Hebrides	31 March–28 July 1915
Royal Commission on Liverpool Military Camp, New South Wales	12 July–20 August 1915
Royal Commission on the charges made by D. L. Gilchrist concerning the construction of the western section of the Kalgoorlie to Port Augusta Railway	23 March–13 September 1916
Royal Commission to inquire into and report upon certain charges against the Administrator and other officers of the Northern Territory Administration	11 May–13 September 1916
Royal Commission on Federal Capital Administration	14 June 1916–14 June 1917

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission on Java and the East Indies , Singapore and the Straits Settlements	7 February 1917–10 May 1918
Royal Commission on Navy and Defence Administration	2 July 1917–4 July 1919
Royal Commission on the war —Australian Imperial Force. Report as to number of members fit for active service and number of reinforcements and enlistments required	6 March–4 April 1918
Royal Commission on Public Service administration, Commonwealth of Australia	2 October 1918–28 July 1920
Royal Commission ... upon the public expenditure of the Commonwealth of Australia with a view to effecting economies	21 November 1918–6 April 1921
Royal Commission on taxation of leasehold estates in Crown lands	18 December 1918–9 October 1919
Royal Commission on the sugar industry	31 March 1919–18 March 1920
Royal Commission on industrial troubles on Melbourne wharfs	7 June 1919–6 May 1920
Royal Commission on late German New Guinea	12 August 1919–21 May 1920
Royal Commission to inquire into complaints by the munition worker passengers to Australia by the transport "Bahia Castillo"	15 October 1919–24 December 1919
Royal Commission on Northern Territory Administration	12 November 1919–21 May 1920
Royal Commission on the basic wage	6 December 1919 23 November 1920
Royal Commission on taxation	10 September 1920–13 June 1923
Royal Commission on the increase of the selling price of coal	30 September 1920–20 October 1920
Royal Commission on the matter of uniform railway gauge	8 February–12 October 1921
Royal Commission on pillaging of ships' cargoes	12 February–12 July 1921
Royal Commission on Cockatoo Island Dockyard	25 April–14 July 1921

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission upon the loyalty to the British Crown of German Nationals resident in Australia whose property is liable to a charge created by the Treaty of Peace Regulations made under the Treaty of Peace (Germany) Act 1919–1920	7 July 1921–11 November 1921
Royal Commission on the circumstances attending the supposed loss at sea of the steamship "Sumatra"	25 July–3 August 1923
Royal Commission in connection with sugar purchases by the Commonwealth through Mr. W. E. Davies in September and October, 1920	24 August 1923–27 March 1924
Royal Commission in connection with joinery supplied to the War Service Homes Commissioner in March, 1920	7 September 1923–27 March 1924
Royal Commission on the Navigation Act	7 September 1923–13 August 1925
Royal Commission on national insurance	7 September 1923–5 October 1927
Royal Commission on the method for determining the unimproved value of land held under Crown leases	12 July 1924–10 June 1925
Royal Commission on the assessment of war service disabilities	27 August 1924–10 June 1925
Royal Commission to inquire into extracts from the reports in Parliamentary Debates of speeches made by Mr. Scullin in the House of Representatives on 7th and 19th August, 1924, in relation to land tax matters	9 September 1924–10 June 1925
Royal Commission on the finances of Western Australia, as affected by Federation	5 November 1924–23 September 1925
Royal Commission on health	7 January 1925–14 January 1926
Royal Commission on Norfolk Island affairs	20 January–13 August 1926
Royal Commission on certain matters in connexion with the British Phosphate Commission	13 June–11 August 1926
Royal Commission on wireless	28 January–5 October 1927
Royal Commission on the Edie Creek (New Guinea) leases	2 March–5 October 1927
Royal Commission on the moving picture industry in Australia	28 May 1927–26 April 1928
Royal Commission on the <i>Constitution</i>	18 August 1927–21 November 1929

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission on child endowment or family allowances	28 September 1927–18 March 1929
Royal Commission of inquiry into fatalities at Bundaberg	1 February–13 June 1928
Royal Commission appointed to inquire into statements in the press in regard to offers alleged to have been made to members to resign seats in the Federal Parliament	28 May–4 September 1928
Royal Commission on the finances of South Australia, as affected by Federation	28 July 1928–22 August 1929
Royal Commission on the coal industry	3 June–21 November 1929
Royal Commission appointed to inquire into allegations affecting members of the Parliamentary Joint Committee of Public Accounts in connexion with claims made by broadcasting companies against the Commonwealth Government	15 May–8 August 1930
Royal Commission on Jacob Johnson	29 August 1931–1 October 1931
Royal Commission on performing rights	19 September 1932–24 May 1933
Royal Commission on taxation	6 October 1932–28 November 1934
Royal Commission on mineral oils and petrol and other products of mineral oils	6 April 1933–8 April 1935
Royal Commission on the wheat, flour and bread industries	25 January 1934–1 April 1936
Royal Commission appointed to inquire into and report upon the circumstances associated with the retirement of Lieutenant-Commander Alan Dermot Casey from the Royal Australian Navy	11 July–23 October 1934
Royal Commission appointed to inquire into the monetary and banking systems at present in operation in Australia ...	15 November 1935–24 August 1937
Royal Commission on doctors' remuneration for national insurance service and other contract practice	18 July 1938–
Royal Commission regarding the contract for the erection of additions to the General Post Office, Sydney	7 June–7 September 1939
Royal Commission to inquire into and report upon the contract or contracts with Abbco Bread Co. Pty. Limited for the supply of bread to the Department of the Army, and other matters	28 March–21 August 1941
Royal Commission to inquire into circumstances under which certain public monies were used and to whom, and for what purposes such moneys were paid ...	27 September–25 November 1941

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission in the matter of an inquiry into a statement that there was a document missing from the official files in relation to "The Brisbane Line"	29 June–28 September 1943
Royal Commission to inquire into and report upon certain transactions of the Sydney Land Sales Control Office, and the Canberra Land Sales Control Office of the Treasury	13 June–25 September 1947
Royal Commission appointed to inquire into certain transactions in relation to timber rights in the Territory of Papua-New Guinea	11 January–24 June 1949
Royal Commission on the Port Augusta to Alice Springs Railway	June 1951–9 July 1952
Royal Commission on television	11 February 1953–29 September 1954
Royal Commission on espionage	3 May 1954–14 September 1955
Royal Commission on alleged improper practices and improper refusal to co-operate with the Victoria Police Force on the part of persons employed in the Postmaster-General's Department in Victoria in relation to illegal gambling	23 May 1962–23 May 1963
Royal Commission on loss of H.M.A.S. Voyager	14 February–26 August 1964
Royal Commission on the statement of Lieutenant Commander Cabban and matters incidental thereto	31 May 1967–13 March 1968
Royal Commissions into exploratory and production drilling for petroleum in the area of the Great Barrier Reef	5 May 1970–11 February 1975
Aboriginal Land Rights Commission	8 February 1973–17 July 1974
Australian Post Office Commission of inquiry	22 February 1973–23 July 1974
Commission of inquiry into land tenures	4 May 1973–26 May 1976
Royal Commission on petroleum	12 September 1973–8 December 1976
Commission of Inquiry into the maritime industry	25 September 1973–2 November 1976
Independent Inquiry into Frequency Modulation Broadcasting	27 November 1973–13 March 1974
Commission of Inquiry into transport to and from Tasmania	10 April 1974–25 March 1976

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission on Australian Government Administration	6 June 1974–18 August 1976
Royal Commission on human relationships	21 August 1974–28 February 1978
Royal Commission on intelligence and security	21 August 1974–25 October 1977
Royal Commission into alleged payments to maritime unions	5 September 1974–25 May 1976
Royal Commission to inquire into and report upon certain incidents in which Aborigines were involved in the Laverton area [WA Royal Commission with a Commonwealth nominee and costs shared by Commonwealth and WA Governments]	23 April 1975–13 April 1976
Royal Commission into Matters Relating to Norfolk Island	15 May 1975–16 November 1976
Australian Royal Commission of inquiry into drugs	13 October 1977–16 September 1980
Royal Commission of inquiry into matters in relation to electoral redistribution Queensland, 1977	24 April 1978–15 August 1978
Commission of inquiry into the efficiency and administration of hospitals	29 August 1979–26 February 1981
Commission of inquiry into the viability of the Christmas Island phosphate industry	20 December 1979–21 February 1980
Royal Commission on the activities of the Federated Ship Painters and Dockers Union	10 September 1980–1 November 1984
Royal Commission of inquiry into drug trafficking	25 June 1981–31 May 1983
Royal Commission into the activities of the Australian Building Construction Employees' and Builders Labourers' Federation	20 August 1981–20 October 1982
Royal Commission into Australian meat industry	12 September 1981–21 September 1982
Royal Commission of inquiry into the activities of the Nugan Hand Group [extension of the Royal Commission of Inquiry into Drug Trafficking 1981–1983]	28 March 1983–27 November 1985
Royal Commission on the use and effects of chemical agents on Australian personnel in Vietnam	13 May 1983–22 August 1985
Royal Commission on Australia's security and intelligence agencies	17 May 1983–22 May 1985

Title	Date of Letters Patent - Date Final Report Presented
Commission of inquiry into compensation arising from social security conspiracy prosecutions	9 February 1984–10 June 1986
Royal Commission into British nuclear tests in Australia	16 July 1984–5 December 1985
Royal Commission of inquiry into alleged telephone interceptions	29 March 1985–1 May 1986
Royal Commission of inquiry into Chamberlain convictions	2 April 1986–2 June 1987
Royal Commission into Grain Storage, Handling and Transport	13 October 1986–15 March 1988
Royal Commission into Aboriginal Deaths in Custody	16 October 1987–9 May 1991
Commission of Inquiry into the Australian Secret Intelligence Service	15 March 1994–9 May 1995
Royal Commission of Inquiry into the Leasing by the Commonwealth of Accommodation in Centenary House	16 May 1994–7 November 1994
Commission of Inquiry into the Relations Between the CAA and Seaview Air	25 October 1994–9 October 1996
Royal Commission into HIH Insurance	29 August 2001–4 April 2003
Royal Commission into the Building and Construction Industry	29 August 2001 – 24 February 2003
Royal Commission to Inquire into the Centenary House Lease	24 June–6 December 2004
Inquiry into certain Australian companies in relation to the UN Oil-For-Food Programme	10 November 2005–24 November 2006
Equine Influenza Inquiry	25 September 2007–12 June 2008
Royal Commission into Institutional Responses to Child Sexual Abuse	11 January 2013–15 December 2017
Royal Commission into the Home Insulation Program	12 December 2013–29 August 2014
Royal Commission into Trade Union Governance and Corruption	13 March 2014–28 December 2015
Royal Commission into the Protection and Detention of Children in the Northern Territory	1 August 2016–17 November 2017

Title	Date of Letters Patent - Date Final Report Presented
Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission)	14 December 2017-4 February 2019
Royal Commission into Aged Care Quality and Safety	8 October 2018-26 February 2021
Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability	4 April 2019-Final Report due no later than 29 September 2023
Royal Commission into National Natural Disaster Arrangements	20 February 2020-28 October 2020
Royal Commission into Defence and Veteran Suicide	8 July 2021-Final report due not later than 15 June 2023

Appendix F: Detailed analysis of disability-specific frameworks

Commonwealth Disability Specific Frameworks

The *National Disability Insurance Scheme Act 2013* (Cth) (**NDIS Act**), *Disability Services Act 1986* (Cth) (**Commonwealth DS Act**), and State and Territory disability services legislation all regulate the standard of care delivered by disability service providers across Australia.

These frameworks contain protective safeguards to regulate standards of care, complaints and investigation processes, and consequences for service providers where standards of care are not met. The NDIS Act is now the primary disability services framework in Australia, however Commonwealth and State and Territory legislation operates concurrently, so there may be numerous safeguards that apply to a particular factual circumstance.⁴⁷

Commonwealth protections for standards of care for people with disability

The NDIS is an Australia-wide scheme for the delivery of supports and services to eligible people with disability. The NDIS provides support to eligible people with intellectual, physical, sensory, cognitive and psychosocial disability by providing funding based on their individual needs. It provides a comprehensive framework that covers all aspects of funding provided under the NDIS Act, including regulation of persons or entities providing supports to participants in all jurisdictions (referred to as 'NDIS providers' or 'registered NDIS providers', depending on their status). However, the NDIS Act does not apply to everyone. Significantly, for instance, only persons aged under 65 are eligible to become NDIS participants.⁴⁸

The NDIS Act also establishes the NDIS Quality and Safeguards Commission (**NDIS Commission**), which is responsible for a range of functions under the National Quality and Safeguarding Framework aimed at protecting and preventing harm to people with disability in the NDIS market.⁴⁹

The NDIS is in addition to the Commonwealth DS Act which provides another avenue by which the Commonwealth may fund the provision of services for people with disability. In practice, many of the services outlined above are now funded under the NDIS rather than the Commonwealth DS Act. However, these funding powers remain available to the Commonwealth, and the Commonwealth DS Act still provides the statutory basis for several Commonwealth programs.

⁴⁷ *National Disability Insurance Scheme Act 2013*, s 207 expresses the intention of the Parliament that the NDIS Act is not to apply to the exclusion of State or Territory laws that are capable of operating concurrently with the Act.

⁴⁸ NDIS Act s 22(1)(a).

⁴⁹ *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, preamble.

The NDIS Code of Conduct establishes core values and principles

The *National Disability Insurance Scheme (Code of Conduct) Rules 2018* set out the NDIS Code of Conduct, which applies to all NDIS providers and persons employed or otherwise engaged by them, regardless of whether they are registered. The NDIS Code of Conduct supports the rights of people with disability in the NDIS to have access to safe and ethical supports, and reflects the core values and principles set out in the National Standards for Disability Services, the National Mental Health Standards and the *National Disability Insurance Scheme Act 2013*.

Anyone can raise a complaint about potential breaches of the NDIS Code of Conduct. When NDIS providers, or persons employed or otherwise engaged by NDIS providers, are found to have breached the NDIS Code of Conduct, the Commissioner is able to take a range of actions as appropriate, including education, compliance and enforcement action or prohibiting them from operating in the NDIS market.

The NDIS Act also contains a civil penalty provision for failing to comply with a requirement under the NDIS Code of Conduct.⁵⁰

The NDIS Practice Standards provides detailed operational requirements for NDIS providers

The *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* set out some of the conditions that providers must comply with to become and remain registered NDIS providers. They also set out the NDIS Practice Standards that apply to all registered NDIS providers, and those that apply to providers delivering more complex supports in areas such as behaviour support, early childhood supports, specialist support coordination and specialist disability accommodation. Together with the NDIS Code of Conduct, these rules enable people with disability participating in the NDIS to be aware of what quality service provision they should expect from registered NDIS providers.

Non-compliance with the NDIS Practice Standards by registered NDIS providers constitutes a breach of condition of registration, which can result in suspension or revocation of registration and/or civil penalties: see s 73F(2)(c), 73J and 73P).

Interaction between the Commonwealth DS Act and the NDIS Quality and Safeguards Commission

The Disability Support for Older Australians (**DSOA**) program is the last disability support services program that is funded under the Commonwealth DS Act. It provides support services to people with disability who are not eligible for the NDIS, but were, at the time the NDIS commenced in their region:

- an Aboriginal or Torres Strait Islander person aged 50 to 64 years old, or any person aged 65 years or over; and

⁵⁰ NDIS Act, s 73V(3).

- receiving disability services administered by a State or Territory.⁵¹

The DSOA program funds ‘service coordinators’ who oversee the delivery of disability support services. The program adopts the regulatory arrangements established through the NDIS Act, as also imposes obligations on service coordinators through its funding agreements.⁵² All DSOA service coordinators including their subcontractors must be registered with the NDIS Commission under the NDIS Act.⁵³

Accordingly, service coordinators under the DSOA program are ‘NDIS providers’ for the purposes of the NDIS Act, even though they provide services outside of the NDIS.⁵⁴ The effect of this is that these providers are subject to the jurisdiction of the NDIS Quality and Safeguards Commission. They must, among other things, be registered under s 73E of the Act if they are to provide certain classes of support,⁵⁵ and comply with the NDIS Code of Conduct.⁵⁶ Similar requirements are set out in the funding agreements between the Commonwealth and the service providers (**DSOA Grant Agreements**). Further, the standard terms and conditions in those agreements require DSOA providers to comply with worker screening laws.⁵⁷

Exemptions for the registration requirement can be provided, but exempt service coordinators are still subject to the NDIS Code of Conduct and any other requirements in their DSOA Grant Agreement.⁵⁸

A summary of the NDIS Act and the Commonwealth DS Act frameworks, including their respective safeguards, is set out below.

Framework	Summary
NDIS Act	Establishes an Australia-wide scheme for the delivery of supports and services to eligible people with disability. The

⁵¹ Department of Health (Cth), *About the Disability Support for Older Australians Program* (12 August 2021). See also items 153, 154 and 470 in Part 4, Schedule 1AB of the *Financial Framework (Supplementary Powers) Regulations 1997* (Cth), which provides the legislative authority for the program (with reference to the former Continuity of Service program, which was replaced by the DSOA program on 1 July 2021).

⁵² Department of Health (Cth), *Responsibilities of Disability Support for Older Australians Program service coordinators* (12 August 2021).

⁵³ Department of Health (Cth), *Disability Support for Older Australians: Program Manual (Version 6)* (December 2021), see 8.1

⁵⁴ NDIS Act s 9 (definition of ‘NDIS provider’); *National Disability Insurance Scheme (NDIS Provider Definition) Rule 2018* s 5.

⁵⁵ NDIS Act ss 73A, 73B.

⁵⁶ NDIS Act s 73V.

⁵⁷ Department of Health (Cth), *Disability Support for Older Australians: Program Manual (Version 6)* (December 2021), see 8.3.

⁵⁸ Department of Health (Cth), *Disability Support for Older Australians: Program Manual (Version 6)* (December 2021), see 8.1.

	<p>NDIS provides the primary framework for regulating the standard of care for disability service providers.</p> <p>The NDIS provide numerous mechanisms for reporting and investigating complaints concerning standards of care which are underpinned by civil and financial penalties for NDIS service providers in the event that the allegations in a complaint are made out. These include:</p> <ul style="list-style-type: none"> a regulatory body, the NDIS Quality and Safeguards Commission, established to investigate complaints and potential non-compliance with the NDIS Act⁵⁹ an enforceable code of conduct for all service providers underpinned by civil penalty provisions⁶⁰ mandatory practice standards for registered service providers underpinned by civil penalty provisions⁶¹ required internal reporting processes for services providers⁶² incident management and reporting obligations for registered service providers⁶³ the power to suspend or revoke registration of registered service providers, to undertake compliance action and
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⁵⁹ NDIS Act, Chapter 6A.

⁶⁰ NDIS Act, s 73V; *National Disability Insurance Scheme (Code of Conduct) Rules 2018*.

⁶¹ NDIS Act, ss 73T; *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

⁶² NDIS Act, Div 5, Part 3A; *National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018*.

⁶³ NDIS Act, s 73Z; *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*.

	<p>banning orders against all service providers, and to place conditions on the types of services that a service provider can offer.⁶⁴</p> <p>It is important to note that there is a distinction between ‘registered NDIS providers’ and ‘NDIS providers’ under the Act, and that the regulatory mechanisms that apply to these service providers differ significantly.</p>
Commonwealth DS Act	<p>Provides another option for the Commonwealth to fund disability services that do not fall within the remit of the NDIS Act. Current programs include:</p> <ul style="list-style-type: none"> a. the National Disability Advocacy Program⁶⁵ b. the Disability Employment Services program,⁶⁶ and c. the Commonwealth Disability Support for Older Australians program. <p>DSOA uses ‘service coordinators’ to provide disability support services to clients, and are regulated under the NDIS Act as ‘registered NDIS providers’. They are subject to all of the conditions of a registered NDIS provider, including <i>inter alia</i> the NDIS Code of Conduct and the NDIS Practice Standards.</p>

⁶⁴ NDIS Act, ss 73N, 73P, 73ZM, and 73ZN.

⁶⁵ Commonwealth DS Act, Div 3, Part 2; items 51 and 53 in Part 4, Schedule 1AB of the *Financial Framework (Supplementary Powers) Regulations 1997* (Cth).

⁶⁶ Commonwealth DS Act, Div 2A, Part 2; items 49 and 5.0 in Part 4, Schedule 1AB of the *Financial Framework (Supplementary Powers) Regulations 1997* (Cth).

	The Commonwealth DS Act includes the power to vary or terminate grants of funding and to place conditions on the types of services that a service provider can offer.
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Receipt of a lesser standard of care following engagement with a royal commission or similar

The frameworks that operate to provide standards of care set a benchmark for the provision of disability services that must be met. If the threshold standard of care is not provided, the abovementioned safeguards provide regulatory options to correct the situation. We are not aware that any of the frameworks regulating the standard of care require a person to demonstrate that the reduction in the standard of care was in response to a particular action by the person with disability or their representative.

In circumstances where a person with disability provided information voluntarily to a royal commission or commission of inquiry and subsequently suffered a lesser standard of care, it is not necessary under the various Commonwealth, State or Territory regulatory regimes to demonstrate that the lessened standard of care was a reprisal for the information the person disclosed to the commission. All that is relevant is the standard of care that the person received no longer met the required standard imposed by the legislation. That said, evidence of conduct in the nature of a reprisal may well be relevant to an assessment of a person's integrity and honesty (among other things), which will have a bearing on that person's appropriate provision of supports to people with disability.

For example, retaliatory action by a disability service provider in response to engagement by a person with disability with a royal commission or commission of inquiry resulting in a lesser standard of care for the individual would likely constitute a breach of the NDIS Code of Conduct and, if the relevant service provider is a 'registered NDIS provider', the NDIS Practice Standards.⁶⁷

The NDIS Code of Conduct at section 6 states that:

In providing supports or services to people with disability, a Code-covered person must:

- (a) ...
- (b) ...

⁶⁷ *National Disability Insurance Scheme (Code of Conduct) Rules 2018*, s 6(c)-(f); *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, Schedule 1, s 7, 13(2).

- (c) provide supports and services in a safe and competent manner, with care and skill; and
- (d) act with integrity, honesty and transparency; and
- (e) promptly take steps to raise and act on concerns about matters that may impact the quality and safety of supports and services provided to people with disability; and
- (f) take all reasonable steps to prevent and respond to all forms of violence against, and exploitation, neglect and abuse of, people with disability; and
- (g)

For registered NDIS providers, the obligations are more significant. The NDIS Practice Standards, set out in s 20 of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, exhaustively codifies the standard of care delivered by registered NDIS providers. The specific circumstances of the case will determine which of the NDIS Practice Standards have not been complied with as required by s 20(2) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

The NDIS Quality and Safeguards Commissioner could then take a variety of enforcement and remedial action against the disability service provider, including:

- investigating the conduct⁶⁸
- varying the service provider's registration⁶⁹
- suspension of the service provider's registration⁷⁰
- termination of the service provider's registration⁷¹
- issuing a compliance notice⁷²
- making a banning order⁷³
- seeking an enforceable undertaking from the service provider⁷⁴

⁶⁸ NDIS Act, s73ZF.

⁶⁹ NDIS Act, s 73L.

⁷⁰ NDIS Act, s 73N.

⁷¹ NDIS Act, s 73P.

⁷² NDIS Act, 73ZM.

⁷³ NDIS Act, 73ZN.

⁷⁴ NDIS Act, 73ZP.

- applying to a court for injunctive relief,⁷⁵ and
- taking civil penalty action, including issuing infringement notices.⁷⁶

However, the extent to which enforcement action can be taken will depend on the registration status of the service provider. The actions above that reference 'registration' only apply if the service provider is registered.

⁷⁵ NDIS Act, 73ZQ.

⁷⁶ NDIS Act, ss 73J, 73V and 73ZL.

Regulation of disability service providers under the *National Disability Insurance Scheme Act 2013* – a summary

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
Requirement to be a registered NDIS provider	<p>The <i>National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018</i> require that specified classes of supports provided under participants' plans are to be provided only by persons who are registered under section 73E to provide those classes of supports (s 73B(1)).</p> <p>A person must not provide a support under a participant's plan if the National Disability Insurance Scheme rules require the person to be registered to provide the support under the plan and the person is not so registered (s 73B(2)).</p> <p>Civil penalty: 250 penalty units.</p>

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
Registration of an NDIS provider is subject to conditions	<p>The registration of a person as a registered NDIS provider is subject to the following conditions (s 73F):</p> <ul style="list-style-type: none"> • a condition that the person comply with all applicable requirements imposed by a law of the Commonwealth or a law of the State or Territory in which the person or entity operates as a registered NDIS provider; • a condition that the person comply with all applicable requirements of the NDIS Code of Conduct; • a condition that the person comply with all applicable standards and other requirements of the NDIS Practice Standards; • a condition that the person comply with all applicable requirements relating to record keeping prescribed by the National Disability Insurance Scheme rules for the purposes of section 73Q; • a condition that the person implement and maintain the applicable complaints management and resolution system in accordance with section 73W; • a condition that the person comply with all applicable requirements relating to complaints prescribed by the National Disability Insurance Scheme rules for the purposes of section 73X; • a condition that the person implement and maintain the applicable incident management system in accordance with section 73Y; • a condition that the person comply with all applicable requirements relating to reportable incidents prescribed by the National Disability Insurance Scheme rules for the purposes of section 73Z; • a condition that the person give to the Commissioner, on request, information specified in the request within the period specified in the request (which must not be less than 14 days); • conditions (if any) imposed by the Commissioner under section 73G; and • conditions (if any) determined by the National Disability Insurance Scheme rules under section 73H.

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
Registered NDIS providers must comply with conditions of registration	<p>A person contravenes s 73J if the person is a registered NDIS provider and breaches a condition to which the registration of the person is subject (s 73J).</p> <p>Civil penalty: 250 penalty units.</p>
Commissioner may vary registration	<p>The Commissioner may vary the registration of a registered NDIS provider, by written notice given to the provider (s 73L(1)):</p> <ul style="list-style-type: none"> • at any time, on the Commissioner's own initiative; or • on application by the provider under section 73M. <p>The Commissioner may vary the registration of a registered NDIS provider if the Commissioner considers it appropriate in all the circumstances to do so (s 73L(2)).</p> <p>The Commissioner may vary the registration of an NDIS provider to (s 73L(3)):</p> <ul style="list-style-type: none"> • impose, vary or revoke conditions to which the registration is subject under section 73G; or • reduce or extend the period for which the registration is in force; or • extend, modify or reduce the supports or services the provider is registered to provide.

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
Suspension of registration	<p data-bbox="521 264 1077 296"><i>Suspension on Commissioner's own initiative</i></p> <p data-bbox="521 328 1603 408">The Commissioner may, in writing, suspend the registration of a person as a registered NDIS provider for a specified period if (s 73N(1):</p> <ul data-bbox="521 440 1626 1031" style="list-style-type: none"> • the Commissioner reasonably believes that the person has contravened, is contravening, or is proposing to contravene, this Act; or • the Commissioner reasonably believes that the application for registration by the person contained information that was false or misleading in a material particular; or • the person is an insolvent under administration; or • the Commissioner is satisfied that the person is no longer suitable to provide the supports or services to people with disability, having regard to any matters prescribed by the National Disability Insurance Scheme rules for the purposes of this paragraph; or • the Commissioner is no longer satisfied that the key personnel of the person (if any) are suitable to be involved in the provision of supports or services to people with disability, having regard to any matters prescribed by the National Disability Insurance Scheme rules for the purposes of this paragraph; or • a circumstance exists that is a circumstance prescribed by National Disability Insurance Scheme rules for the purposes of this paragraph. <p data-bbox="521 1094 1585 1214">The period specified by the Commissioner must not be longer than 30 days (s 73N(2). This does not prevent the Commissioner suspending the registration of a person as a registered provider more than once (s 73N(3)).</p>

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
	<p>In deciding whether to suspend the registration of a person under subsection (1), the Commissioner must have regard to the following matters:</p> <ul style="list-style-type: none"> • the nature, significance and persistence of any contravention, or proposed contravention, of this Act; • action that can be taken to address any contravention, or proposed contravention, of this Act; • the extent (if any) to which the person is conducting its affairs as a registered NDIS provider in a way that may cause harm to, or jeopardise, public trust in the National Disability Insurance Scheme; • the health, safety or wellbeing of people with disability receiving supports or services from the person; • any other matter the Commissioner considers relevant. <p><i>Effect of suspension</i></p> <p>If the registration of a person is suspended under this section, the registration ceases to have effect until the suspension ceases to be in force (s 73N(7)).</p>

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
Revocation of registration	<p>The Commissioner may, in writing, revoke the registration of a person as a registered NDIS provider if (s 73P(1)):</p> <ul style="list-style-type: none"> • the Commissioner reasonably believes that the person has contravened, is contravening, or is proposing to contravene, this Act; or • the Commissioner reasonably believes that the application for registration by the person contained information that was false or misleading in a material particular; or • the person is an insolvent under administration; or • the Commissioner is satisfied that the person is no longer suitable to provide the supports or services to people with disability, having regard to any matters prescribed by the National Disability Insurance Scheme rules for the purposes of this paragraph; or • the Commissioner is no longer satisfied that the key personnel of the person (if any) are suitable to be involved in the provision of supports or services to people with disability, having regard to any matters prescribed by the National Disability Insurance Scheme rules for the purposes of this paragraph; or • a circumstance exists that is a circumstance prescribed by National Disability Insurance Scheme rules for the purposes of this paragraph. <p>In deciding whether to revoke the registration of a person, the Commissioner must have regard to the following matters (s 73P(2)):</p> <ul style="list-style-type: none"> • the nature, significance and persistence of any contravention, or proposed contravention, of this Act; • action that can be taken to address any contravention, or proposed contravention, of this Act;

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
	<ul style="list-style-type: none"> • the extent (if any) to which the person is conducting its affairs as a registered NDIS provider in a way that may cause harm to, or jeopardise, public trust in the National Disability Insurance Scheme; • the health, safety or wellbeing of people with disability receiving supports or services from the person; and • any other matter the Commissioner considers relevant. <p>Before deciding to revoke the registration of a person, the Commissioner must notify the person that revocation is being considered. The notice must be in writing and must (s 73P(4)):</p> <ul style="list-style-type: none"> • include the Commissioner’s reasons for considering the revocation; and • invite the person to make submissions, in writing, to the Commissioner within the period specified in the notice (which must not be less than 28 days); and • inform the person that if no submissions are made within the period specified in the notice, any revocation may take effect as early as 7 days after the end of the period specified in the notice. <p>In deciding whether to revoke the registration, the Commissioner must consider any submissions given to the Commissioner within the period specified in the notice (s 73P(5)).</p> <p>The Commissioner must notify the person, in writing, of the decision (s 73P(6)). The notice of the decision must be given within 28 days after the end of the period for</p>

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
	<p>making submissions. If the notice is not given within this period, the Commissioner is taken to have decided not to revoke the registration (s 73P(7)).</p>
NDIS Practice Standards	<p>The <i>National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018</i> provide for standards concerning the quality of supports or services to be provided by registered NDIS providers (s 73T(1)).</p> <p>Note: Non-compliance with the NDIS Practice Standards by registered NDIS providers constitutes a breach of condition of registration (see paragraph 73F(2)(c) and section 73J).</p>

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
NDIS Code of Conduct	<p>The <i>National Disability Insurance Scheme (Code of Conduct) Rules 2018</i> provide a code of conduct that applies both of the following (s 73V(1)):</p> <ul style="list-style-type: none"> • NDIS providers; • persons employed or otherwise engaged by NDIS providers or members of the key personnel of NDIS providers. <p>A person contravenes this section if the person is subject to a requirement under the NDIS Code of Conduct and fails to comply with the requirement (S73V(3)).</p> <p>Civil penalty: 250 penalty units.</p>
Complaints management and resolution system—registered NDIS providers	<p>A registered NDIS provider must implement and maintain a complaints management and resolution system that (s 73W):</p> <ul style="list-style-type: none"> • is appropriate for the size of the provider and for the classes of supports or services provided by the provider; and • acknowledges the role of advocates (including independent advocates) and other representatives of persons with disability; and • provides for cooperation with, and facilitates arrangements for, advocates (including independent advocates) and other representatives of persons with disability who are affected by the complaints process and who wish to be independently supported in that process by an advocate or other representative; and • complies with the requirements prescribed by the <i>National Disability Insurance Scheme (Complaints Management and Resolution) Rules 2018</i>.

Topic	<i>National Disability Insurance Scheme Act 2013 (Cth)</i>
	<p>Note: Non-compliance with this section constitutes a breach of condition of registration (see paragraph 73F(2)(e) and section 73J).</p>
Incident management system —registered NDIS providers	<p>A registered NDIS provider must implement and maintain an incident management system that:</p> <ul style="list-style-type: none"> • is appropriate for the size of the provider and for the classes of supports or services provided by the provider; and • complies with the requirements prescribed by the <i>National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018</i>. <p>Note: Non-compliance with this section constitutes a breach of condition of registration (see paragraph 73F(2)(g) and section 73J).</p>

Note: further provisions in relation the protection of disclosers under the NDIS Act is provided at **Error! Reference source not found.** above.

State and Territory Disability Specific Frameworks

State and Territory frameworks regulating the standard of care delivered by disability service providers

The introduction of the Commonwealth NDIS likely diminishes the application of protections under State and Territory disability services legislation. However, for persons that experience a lesser standard of care following their engagement with a Royal Commission, there are a large number of remaining oversight bodies, advocacy services, and community visitor schemes that persons with disability can access to remedy the situation. These safeguards, and the funding schemes that they accompany, are explained in detail in the table below.

State and Territory disability service provider funding legislation

The introduction of the NDIS Act largely replaced the disability services funding that had traditionally been provided by the States and Territories under their respective disability services legislation. However, the States and Territories continue to provide funding for advocacy services for people with disability. The States and Territories also continue to apply certain safeguards of their own under disability services legislation and other laws, some of which add to or overlap with the protections in place under the NDIS Act.

The State and Territory disability services legislation which formerly formed the key mechanisms by which each jurisdiction funded these specialist services are:

- **New South Wales:** the *Disability Inclusion Act 2014* (NSW);
- **Victoria:** the *Disability Act 2006* (Vic);
- **Queensland:** the *Disability Services Act 2006* (Qld);
- **South Australia:** the *Disability Inclusion Act 2018* (SA);
- **Western Australia:** the *Disability Services Act 1993* (WA);
- **Tasmania:** the *Disability Services Act 2011* (Tas);
- **Northern Territory:** the *Disability Services Act 1993* (NT); and
- **Australian Capital Territory:** the *Disability Services Act 1991* (ACT).

State and Territory bodies responsible for protecting people with disability

In addition to the protections set out in disability services legislation, New South Wales, South Australia, the ACT and the Northern Territory each have specific legislation establishing bodies designed to safeguard the rights and welfare of people with disability. Victoria also has a further legislative regime intended to facilitate the co-ordinated provision of multiple services to people with disability who have complex needs.

These bodies perform functions relating to the resolution of complaints about certain services for people with disability, as well as advising government and educating the public on issues relating to people with disability. These bodies may also have a formal role in addressing and preventing the abuse, neglect or exploitation of people with disability, and identifying systemic issues in this field.

State and Territory public advocates and public guardians

Public advocates and public guardians provide a second source of protection. These are independent statutory appointees who generally have a specific role in the context of guardianship legislation; for instance, they may act as the guardian or attorney of last resort for adults with impaired capacity, or provide guidance and oversight for other guardians.

Each State and Territory has legislation establishing the office of a Public Advocate or Public Guardian. The scope of this role varies between jurisdictions. In New South Wales, Western Australia and the Northern Territory, for instance, the Public Guardian's functions are largely focussed on the guardianship system (eg, providing oversight of guardianship arrangements for people with impaired capacity).

In other jurisdictions, however, the Public Advocate or Guardian has broader responsibilities to advocate for and safeguard people with disability or impaired capacity more generally. This may extend to protecting them from abuse, neglect or exploitation, acting on their behalf to obtain assistance, and encouraging the development of programs and services for their benefit.

State and Territory community visitor schemes

Thirdly, all jurisdictions have legislation establishing 'community visitor' or 'official visitor' schemes. Community visitors are independent statutory appointees empowered to attend 'visitable premises' and perform functions such as:

- inspecting whether relevant facilities and services are of an appropriate standard;
- receiving complaints from and providing information to residents; and

- identifying and reporting on issues relevant to residents' rights and wellbeing.

Community visitors are generally empowered to visit premises unannounced, and confer with residents and staff. They also have certain powers to inspect records and require staff to answer questions. This may assist them to identify systemic issues in the provision of services to people with disability. In this way, community visitor schemes provide a degree of independent oversight in a range of institutional settings, and form part of the broader framework for preventing the abuse, neglect and exploitation of people with disability.

Coverage of community visitor schemes and interaction with the NDIS

The coverage of community visitor schemes varies significantly between jurisdictions. In Tasmania and Western Australia, these schemes apply only to mental health facilities. In other jurisdictions, however, they extend to a range of settings in which people with disability may live or receive services. Broadly speaking, community visitors are statutory appointees empowered to attend and inspect 'visitable premises' to determine that the facilities and services are of an appropriate standard, receive complaints from and provide information to residents, and identify and report on any issues. In some jurisdictions, these schemes extend to specialist disability accommodation provided under the NDIS, and certain other premises at which NDIS participants receive supports and services. However, the NDIS Act does not formally recognise the interaction between these schemes and the NDIS

State and Territory legislative provisions – disability specific statutory and administrative remedies

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
Primary disability services legislation	<i>Disability Services Act 1991 (ACT)</i>	<i>Disability Inclusion Act 2014 (NSW)</i>	<i>Disability Services Act 1993 (NT)</i>	<i>Disability Services Act 2006 (Qld)</i>	<i>Disability Inclusion Act 2018 (SA)</i>	<i>Disability Services Act 2011 (Tas)</i>	<i>Disability Act 2006 (Vic)</i>	<i>Disability Services Act 1993 (WA)</i>
Background and overarching purpose - disability services legislation	Sets quality standards for specialist disability services, including for NDIS providers, and extends the Territory's existing official visitor scheme to residential institutions.	Provides for the funding of specialist disability services. The objects of the Act include: <ul style="list-style-type: none"> • providing safeguards in relation to the delivery of those supports and services; and • providing for the responsibilities of the State during and after the 	Deals with the funding of State-based disability services, the treatment and care of certain cognitively impaired patients, and the use of restrictive practices. It also establishes a community visitor scheme for certain State-operated residential services.	Provides for the funding of specialist disability services within Queensland and deals with matters relevant to the provision of services under the NDIS, such as the use of restrictive practices. The objects of the Act include: <ul style="list-style-type: none"> • ensuring that State-funded disability services are safe, 	South Australia has two pieces of disability services legislation; the <i>Disability Services Act 1993 (SA)</i> and <i>Disability Inclusion Act 2018 (SA)</i> . The 1993 Act has been largely superseded by the NDIS. The Act also imposes certain obligations on State-funded disability service providers, and	Provides (among other things) for the funding and strategic planning of specialist disability services, and the regulation of restrictive practices.	Establishes a range of statutory bodies and offices relevant to the planning and delivery of services to people with disability, and provides for the planning of service delivery at a whole-of-government level. It also deals with the funding of service providers at a State level, as well as regulating residential services, restrictive	Western Australia is the most recent jurisdiction to reach full scheme status for the NDIS. Initially, Western Australia implemented a trial version of the individual funding model used under the NDIS, funded and administered by the State under the <i>Disability Services Act 1993 (WA)</i> .

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
		transition to the NDIS. ⁷⁷		<p>accountable and respond to the needs of people with disability; and</p> <ul style="list-style-type: none"> • supporting the operation of the NDIS in Queensland, and ensuring the quality and safety of disability services in that context.⁷⁸ <p>The Act outlines sets out principles that 'service providers' are</p>	<p>on the State, where it is providing services itself (including obligations in relation to safety and welfare procedures, complaints policies and worker screening).⁸¹</p> <p>The 2018 Act does not provide for the State-based funding of disability services. Rather, it sets out whole-of-government</p>		practices and other matters.	However, the State subsequently committed to joining the national NDIS, and Western Australia is now primarily regulated under the NDIS.

⁷⁷ *Disability Inclusion Act 2014* (NSW) s 3.

⁷⁸ *Disability Services Act 2006* (Qld) s 6(1).

⁸¹ *Disability Services Act 1993* (SA) ss 3A–3B, 5, 5B–C. It also prohibits a provider of disability services funded under the Act from victimising a person for disclosing information or making allegations that could give rise to legal proceedings against a provider, or indicate that it had breached a funding agreement (see s 5A).

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
				<p>encouraged to promote when developing and implementing services for people with disability.⁷⁹</p> <p>‘Service provider’ covers any entity providing services for people with disability, including State-funded providers, certain NDIS providers and registered NDIS providers, and other service providers.⁸⁰</p>	<p>disability inclusion obligations, and deals with certain quality and safeguards matters.</p> <p>The objects of the 2018 Act include:</p> <ul style="list-style-type: none"> • providing safeguards in the delivery of supports and services; and • articulating and facilitating the role of the State during and after the transition 			

⁷⁹ *Disability Services Act 2006* (Qld) ss 19-32.

⁸⁰ *Disability Services Act 2006* (Qld) ss 13, 15-16A.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
						to the NDIS. ⁸²		
Prescription of standards - disability services legislation	The Minister can approve standards about the provision of specialist disability services by specialist disability service providers. ⁸³ ‘Specialist disability service providers’ are persons or entities (other than the Territory) that provide specialist disability services, subject to certain	Part 4 provides for the making of regulations setting out standards relating to the provision of supports and services for people with disability. ⁸⁹ Compliance with those standards is a condition of State funding for certain entities under Part 5. ⁹⁰					All Victorian unregistered disability workers are required to comply with the National Disability Insurance Scheme Code of Conduct. ⁹¹ Registered disability service providers must comply with the <i>Department of Human Services Standards (Disability)</i> <i>Determination 2012</i> (Vic). ⁹²	

⁸² *Disability Inclusion Act 2018* (SA) s 8.

⁸³ *Disability Services Act 1991* (ACT) s 5A(1).

⁸⁹ *Disability Inclusion Act 2014* (NSW) ss 20-21.

⁹⁰ *Disability Inclusion Act 2014* (NSW) s 31(2); see also s 30(3).

⁹¹ *Disability Service Safeguards Act 2018* (Vic) s118; *Disability Service Safeguards Regulations 2020* (Vic) s 5.

⁹² Victorian State Government, *Policy, procedures and forms for the registration of Department of Health and Human Services funded disability service providers and community services* (September 2020), p 9.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
	exclusions (eg, close relatives). ⁸⁴ ‘Specialist disability services’ are services that are declared by the Minister and provided specifically for people with disability. ⁸⁵ The relevant service types are set out in <i>Disability Services (Specialist Disability Service Types) Declaration 2014 (No 1)</i> , and include a range of services provided under the NDIS.	Parts 4 and 5 of the Act are of limited relevance now that New South Wales has reached full scheme status with the NDIS.						

⁸⁴ *Disability Services Act 1991* (ACT) s 5(1).

⁸⁵ *Disability Services Act 1991* (ACT) s 4(1).

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
	<p>The standards are set out in the <i>Disability Services (Standards) Declaration 2014 (No 1)</i>. There a number of generally applicable standards requiring providers to maintain relevant insurance, ensure that staff are fit and proper persons, institute feedback and complaints procedures, notify the Director-General of certain matters, and handle personal information appropriately.⁸⁶</p>							

⁸⁶ *Disability Services (Standards) Declaration 2014 (No 1)* ss 4-8.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
	<p>Schedule 1 of the instrument then sets out further national standards that apply to particular types of services.⁸⁷</p> <p>These standards were designed to provide interim quality and safeguards arrangements during the transition to the NDIS,⁸⁸ but they remain in force.</p>							
Making of grants - disability services	Part 2 of the Act provides for the making of conditional	Part 5 is no longer relevant as it deals with the provision of	Part 2 of the Act empowers the Minister to approve funding	Part 4 provides for the Minister to approve the provision of funding for	The 1993 Act provides for the making of grants to fund	Although largely superseded by the transition to the NDIS, Part 3	Part 4 also deals with the State-based registration of disability	Part 4 empowers the Commission to approve grants

⁸⁷ *Disability Services (Standards) Declaration 2014 (No 1)* s 3(1). These standards are rendered enforceable through s 6 of the *Disability Services Regulation 2014* (ACT).

⁸⁸ Explanatory Statement, *Disability Services Approved Standard 2014 (No 1)*, 1.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
legislation	grants of financial assistance to providers of services, ⁹³ people with disability and researchers. ⁹⁴ Grants must, <i>inter alia</i> , comply with any grant guidelines made by the Minister under s 10(1)(a). ⁹⁵ Further, any programs and	supports and services to people with disability during the transition to the NDIS (which has now ended). ⁹⁷ Grants can now only be made under s 37, which empowers the Secretary to provide financial assistance to various entities to promote the	to service providers, researchers and people with disability, subject to terms and conditions imposed under funding agreements. ⁹⁹ These provisions have been substantially superseded by the NDIS	people with disability to obtain 'relevant disability services'. ¹⁰⁰ However, as the <i>Disability Services Regulation 2017</i> (Qld) does not prescribe any services, these provisions have no practical application.	disability services and research or development activities. ¹⁰¹ However, this has been largely superseded by the NDIS.	of the Act still empowers the Secretary to provide services, or provide assistance in relation to the provision of services, to people with disability. ¹⁰² It also empowers the Secretary to make grants to: enable a person or organisation to provide	service providers. ¹⁰⁵ These provisions are of limited relevance following the rollout of the NDIS in Victoria.	of financial assistance to people with disability, carers, service providers and service developers. ¹⁰⁶ 'Service provider' refers to an individual, group or body that renders or provides disability services (other than carers). ¹⁰⁷

⁹³ Here meaning a person or organisation that provides services to people with disability (Dictionary, definition of 'provider of services').

⁹⁴ *Disability Services Act 1991* (ACT) s 6(1).

⁹⁵ *Disability Services Act 1991* (ACT) s 6(2)(a).

⁹⁷ *Disability Inclusion Act 2014* (NSW) s 23.

⁹⁹ *Disability Services Act 1993* (NT) ss 3-4. The Minister must also not approve funding to a provider or researcher unless satisfied that their activities will further the principles and objectives set out in Schedules 2 and 3 (s 3(2)).

¹⁰⁰ *Disability Services Act 2006* (Qld) s 36.

¹⁰¹ *Disability Services Act 1993* (SA) s 4.

¹⁰² *Disability Services Act 2011* (Tas) s 13.

¹⁰⁵ *Disability Act 2006* (Vic) ss 40-48A. See also Divisions 2-3.

¹⁰⁶ *Disability Services Act 1993* (WA) s 24(1).

¹⁰⁷ *Disability Services Act 1993* (WA) s 3.

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	services funded by the grant must comply with the requirements in Schedule 2 of the Act. ⁹⁶ That Schedule sets out a range of general obligations relevant to the design and implementation of programs and services relating to people with disability – eg, that services should focus on improving quality of life, be integrated with mainstream services where possible, and be	objects of the Act. ⁹⁸				specialist disability services or carry out a research or development activity; or enable a person with disability (or their nominee) to acquire specialist disability services, or other goods or services relevant to their disability. ¹⁰³ Grants may only be made where the recipient has entered into a funding agreement, and the Secretary is satisfied that		A ‘service developer’ may engage in a range of activities, such as investigating the need for disability services, researching service provision, developing proposals for or planning the provision of disability services, or developing or implementing training programs for service providers. ¹⁰⁸

⁹⁶ *Disability Services Act 1991* (ACT) s 6(2)(b).

⁹⁸ *Disability Inclusion Act 2014* (NSW) s 23(3).

¹⁰³ *Disability Services Act 2011* (Tas) s 14(1).

¹⁰⁸ *Disability Services Act 1993* (WA) s 3.

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	tailored to meet the individual needs and goals of people with disability.					they will comply with certain requirements. ¹⁰⁴		
Complaints - disability services legislation	Under the <i>Human Rights Commission Act 2005</i> (ACT), a person can make a complaint about a disability service on various grounds, including that the service is not being provided appropriately (or at all), or the service provider has acted inconsistently with certain standards. ¹⁰⁹	Dealt with under the <i>Ageing and Disability Commissioner Act 2019</i> (NSW) below.	Part 5 of the Act deals with the making of complaints about residential facilities. 'Residential facilities' are defined as: <ul style="list-style-type: none"> • secure care facilities (which, broadly, are places declared by the Minister in which compulsory 	Part 3 provides for the making of complaints about the delivery of disability services by the Department of Communities, Disability Services and Seniors, and service providers funded by the Department. ¹²² Broadly speaking, complaints may			Part 6 establishes quality and safeguards arrangements that apply to such providers (including in respect of the making and investigation of complaints). These provisions are of limited relevance following the rollout of the NDIS in Victoria.	Part 6 of the Act deals with the making and management of complaints about certain disability and residential services to the Director of the Health and Disability Services Complaints Office (appointed under the <i>Health and Disability</i>

¹⁰⁴ *Disability Services Act 2011* (Tas) ss 15-18; see also *Disability Services Regulations 2015* (Tas) ss 4-9.

¹⁰⁹ *Human Rights Commission Act 2005* (ACT) s 40. Anti-victimisation protections apply to complainants under s 98.

¹²² *Disability Services Act 2006* (Qld) s 32A. It also applies to service providers prescribed by regulation. However, the *Disability Services Regulation 2017* (Qld) does not currently prescribe any providers for this purpose.

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	Further, during the COVID-19 period, a person may complain to the commission about the treatment of a 'vulnerable person' if they believe, on reasonable grounds, that the person is subject to or at risk of abuse, neglect or exploitation. 'Vulnerable person' includes a person with disability within the meaning of the <i>Disability</i>		treatment is provided to people with complex cognitive impairment); ¹¹⁵ and <ul style="list-style-type: none"> • 'appropriate places' (which are places mentioned in s 43ZA(1)(a)(i) of the Criminal Code – ie, residences for persons placed on supervision orders by a court);¹¹⁶ and • other premises 	be made to the chief executive of the Department, who must maintain a system that deals effectively with complaints received, ¹²³ and may also refer complaints to other relevant agencies. ¹²⁴			The <i>Disability Service Safeguards Act 2018</i> (Vic) also contains a further complaints process which applies workers in the disability sector generally (ie, not only workers engaged by registered NDIS providers). Complaints under the <i>Disability Service Safeguards Act 2018</i> (Vic) are managed by the Disability Services Commissioner	<i>Services (Complaints) Act 1995</i> (WA)). ¹²⁵ Various persons may complain to the Director about: ¹²⁶ <ul style="list-style-type: none"> • a service provider that was providing a disability service at the relevant time; • a service provider that is a public authority (other than the Health

¹¹⁵ *Disability Services Act 1993* (NT) ss 14, 72.

¹¹⁶ *Disability Services Act 1993* (NT) s 2(1).

¹²³ *Disability Services Act 2006* (Qld) s 33.

¹²⁴ *Disability Services Act 2006* (Qld) s 34.

¹²⁵ *Disability Services Act 1993* (WA) s 3 (definition of 'Director').

¹²⁶ *Disability Services Act 1993* (WA) ss 32(1), (2A).

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	<p><i>Services Act 1991</i> (ACT).¹¹⁰</p> <p>The commission must deal with complaints promptly and efficiently.¹¹¹ It has various powers in relation to complaints, including to refer them for conciliation, refer them to an appropriate statutory office-holder, or consider them itself.¹¹²</p>		<p>operated by the Agency to provide services for the treatment and care of people with disability.¹¹⁷</p> <p>The manager of a residential facility must establish accessible and fair procedures for dealing with complaints relating to residents of the facility, and make information about those</p>				<p>and the Disability Services Board.</p>	<p>Department), and was providing a disability service at the relevant time; or</p> <ul style="list-style-type: none"> the Commission.¹²⁷ <p>‘Disability service’ is defined in s 3 as a service provided specifically for people with disability or carers, but excludes services funded by the Health</p>

¹¹⁰ *Human Rights Commission Act 2005* (ACT) ss 41B, 105B. Subject to some exceptions, the Commission must obtain the consent of a vulnerable person before taking certain action in relation to such a complaint (see s 52B). See also s 43 for a list of the parties with standing to make a complaint. A disability service complaint may be made by any person (s 43(1)(g)).

¹¹¹ *Human Rights Commission Act 2005* (ACT) s 45(1).

¹¹² *Human Rights Commission Act 2005* (ACT) ss 51, 52, 52A. Part 4.3 deals with the conciliation process.

¹¹⁷ *Disability Services Act 1993* (NT) s 2(1).

¹²⁷ *Disability Services Act 1993* (WA) s 33(1).

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	In order to close a complaint, the commission must compete a report on it. ¹¹³ Where the commission finds that the subject of the complaint has acted inconsistently with certain standards, the report may recommend that they take action to address the identified issues within a specified timeframe. ¹¹⁴		procedures available to residents (and their guardians or substitute decision-makers). ¹¹⁸ A complaint may be made by a resident, their guardian or decision-maker, their primary carer, or any other person with a genuine interest in the treatment and care of a resident. ¹¹⁹ The manager of the relevant facility					Department or the Commonwealth, services provided by a carer, or services prescribed by regulation. ¹²⁸

¹¹³ *Human Rights Commission Act 2005* (ACT) s 80(1).

¹¹⁴ *Human Rights Commission Act 2005* (ACT) s 81. For present purposes, the relevant standards for a disability complaint are the standards mentioned in s 40(b), and include the generally accepted standard of service delivery expected of a provider of the relevant kind.

¹¹⁸ *Disability Services Act 1993* (NT) s 45.

¹¹⁹ *Disability Services Act 1993* (NT) s 46(1).

¹²⁸ *Disability Services Act 1993* (WA) s 30.

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			must ensure that the complaint is investigated in accordance with facility's procedures, and keep the complainant informed of the progress of that investigation. ¹²⁰ Managers also have certain record-keeping and reporting obligations in respect of complaints. ¹²¹					
Compliance monitoring - disability	See below under the <i>Human Rights Commission Act 2005</i> (ACT) in	Dealt with under the <i>Ageing and Disability Commissioner</i>	See below under the <i>Health and Community Services</i>	Part 6A of the Act confers functions and powers on authorised	See below under the <i>Ageing and Adult</i>	Part 4 of the Act provides for the monitoring and review of grants. This includes	Part 3 of the Act establishes a range of bodies and statutory offices relevant to	

¹²⁰ *Disability Services Act 1993* (NT) s 48.

¹²¹ *Disability Services Act 1993* (NT) s 49.

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services legislation	relation to the Disability and Community Services Commissioner.	<i>Act 2019</i> (NSW) below.	<i>Complaints Act 1998</i> (NT).	officers to investigate compliance with the Act. Their functions include investigating, monitoring and ensuring compliance of NDIS non-government service providers with the Act. ¹²⁹ Authorised officers have a range of powers, including the ability to require the provision of information and enter premises	<i>Safeguarding Act 1995</i> (SA).	terminating funding for continued non-compliance with the terms of a grant. ¹³¹	the planning, provision and oversight of disability services, including: <ul style="list-style-type: none"> the Disability Services Commissioner – a statutory office-holder appointed by the Governor in Council, responsible for matters such as investigating and conciliating complaints about disability services, identifying and suggesting ways to remove the 	

¹²⁹ *Disability Services Act 2006* (Qld) s 200E. The regulations may exclude provisions from the scope of this power, but do not currently do so.

¹³¹ *Disability Services Act 2011* (Tas) s 24(3).

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				under warrant. ¹³⁰			<p>causes of abuse and neglect in disability services, and performing advisory, educational and research functions, and</p> <ul style="list-style-type: none"> • the Disability Services Board – a board comprised of members representing service providers, service users, the Secretary and the Health Complaints Commissione r (among others).¹³² The Board's functions 	

¹³⁰ See, eg, *Disability Services Act 2006* (Qld) Part 6A, Division 3, Subdivisions 4-6.

¹³² *Disability Act 2006* (Vic) s 20.

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							include advising the Minister on the disability complaints system and the operations of the Disability Services Commissioner, and providing advice and guidance to, and promoting the operations of, the Commissioner. ¹³³	
Bodies responsible for protecting people with disability	<i>The Human Rights Commission Act 2005</i> (ACT) establishes the ACT Human Rights Commission,	<i>The Ageing and Disability Commissioner Act 2019</i> (NSW) establishes the Ageing and Disability Commissioner.	<i>The Health and Community Services Complaints Act 1998</i> (NT) establishes the Health and	No further quality and safeguarding regimes outside of the disability services legislation	<i>The Ageing and Adult Safeguarding Act 1995</i> (SA) establishes the Adult Safeguarding Unit, which	No further quality and safeguarding regimes outside of the disability services	<i>The Disability Service Safeguards Act 2018</i> (Vic) sets out a worker registration regime and other detailed	No further quality and safeguarding regimes outside of the disability services legislation

¹³³ *Disability Act 2006* (Vic) s 22.

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	<p>which is an independent body that performs functions relevant to the quality of disability services and the protection of people with disability from abuse and exploitation.¹³⁴</p> <p>The commission has a number of members, including the Disability and Community Services Commissioner.¹³⁵</p>	<p>This is an independent, full-time statutory office, with various protective responsibilities relating to adults with disability.¹³⁹</p> <p>The Commissioner's functions include:</p> <p>dealing with allegations of abuse, neglect and exploitation of adults with disability, and taking follow-up</p>	<p>Community Services Complaints Commission, headed by the Commissioner.¹⁴⁹ The Commissioner's functions include:</p> <ul style="list-style-type: none"> inquiring into and reporting on matters relating to community services upon receiving a complaint, or a reference from the Minister or the 	discussed above.	<p>exists to prevent the abuse of older people and other vulnerable adults.</p> <p>'Vulnerable adult' is defined to include an adult who, by reason of disability, is vulnerable to abuse.¹⁵⁶</p> <p>'Abuse' is broadly defined to include physical, sexual, emotional, psychological and financial abuse, exploitation</p>	<p>legislation discussed above.</p>	<p>safeguards that apply to workers in the disability sector more generally (ie, not only workers engaged by registered NDIS providers). In its application to services provided under the NDIS, the Act establishes protections that operate in addition to the safeguards set out in the NDIS Act.</p> <p><i>The Disability Service</i></p>	discussed above.

¹³⁴ *Human Rights Commission Act 2005* (ACT) ss 6(2), 6A(b), 14, 16.

¹³⁵ *Human Rights Commission Act 2005* (ACT) ss 12(1)(c).

¹³⁹ *Ageing and Disability Commissioner Act 2019* (NSW) ss 5, 12(3).

¹⁴⁹ *Health and Community Services Complaints Act 1998* (NT) s 7.

¹⁵⁶ *Ageing and Adult Safeguarding Act 1995* (SA) s 3.

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	<p>The Disability and Community Services Commissioner exercises functions for the commission in relation to disability services.¹³⁶ A 'disability service' is defined as a service provided in the ACT specifically for people with a disability or their carers, and extends to services provided under the NDIS.¹³⁷ The</p>	<p>action to protect them, and</p> <p>inquiring into and reporting on systemic issues relating to the protection of the rights of adults with disability, or their neglect or exploitation.¹⁴⁰</p> <p>The Act provides for the making of reports to the Commissioner where:</p> <ul style="list-style-type: none"> • a person has reasonable grounds to believe that an adult with 	<p>Legislative Assembly (see below);</p> <ul style="list-style-type: none"> • conciliating, investigating, responding to, identifying the causes of and encouraging the resolution of complaints; • suggesting ways of improving community services and complaints systems; and • advising and reporting to 		<p>and neglect, denial of basic rights, and other matters.¹⁵⁷</p> <p>The Act provides for the making of reports to the Adult Safeguarding Unit where a person suspects that a vulnerable adult is at risk of abuse.¹⁵⁸ The Unit must assess each report and take appropriate action, such as investigating</p>		<p><i>Safeguards Act 2018</i> (Vic):</p> <ul style="list-style-type: none"> • provides for the voluntary registration of certain disability workers and students; • regulates unregistered disability workers (including by requiring compliance with a code of conduct); and • provides additional avenues for complaint about disability services. 	

¹³⁶ *Human Rights Commission Act 2005* (ACT) s 21.

¹³⁷ *Human Rights Commission Act 2005* (ACT) s 8(1).

¹⁴⁰ *Ageing and Disability Commissioner Act 2019* (NSW) s 12(1).

¹⁵⁷ *Ageing and Adult Safeguarding Act 1995* (SA) s 4.

¹⁵⁸ *Ageing and Adult Safeguarding Act 1995* (SA) s 22(1).

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	<p>commissioner's functions include:</p> <ul style="list-style-type: none"> • dealing with complaints relating to disability services; • assisting service-users and providers to improve the provision of disability services; • encouraging the development and improvement of procedures for dealing with 	<p>disability is subject to, or at risk of, abuse, neglect or exploitation; or</p> <ul style="list-style-type: none"> • circumstances exist which a person has reasonable grounds to believe will result in the abuse, neglect or exploitation of an adult with disability.¹⁴¹ <p>The Commissioner may investigate or refer the</p>	<p>various entities.¹⁵⁰</p> <p>The Act allows service-users, their representatives, providers and certain other persons to complain to the Commissioner about community services.¹⁵¹</p> <p>However, while the definition of 'community service' appears capable of capturing NDIS services, the Commission has</p>		<p>the matter or referring it to an appropriate body.¹⁵⁹</p> <p>Authorised officers within the Unit have powers of inspection, search and seizure, in addition to compulsory information-gathering powers, when conducting investigations regarding adults at risk of serious</p>		<p>The Act establishes a detailed regime for the making of complaints to the Commission or Board about the professional conduct of disability workers, and, to a more limited extent, about disability students.¹⁶² The Commission gives initial consideration to complaints, before referring them to the Board if they concern</p>	

¹⁴¹ *Ageing and Disability Commissioner Act 2019* (NSW) s 13(1).

¹⁵⁰ *Health and Community Services Complaints Act 1998* (NT) s 12(1).

¹⁵¹ *Health and Community Services Complaints Act 1998* (NT) s 22.

¹⁵⁹ *Ageing and Adult Safeguarding Act 1995* (SA) s 23, ss 25-26. See also ss 27-30. In some cases, however, the consent of the relevant vulnerable adult must be obtained first (s 24).

¹⁶² *Disability Service Safeguards Act 2018* (Vic) s 33. The Commission or Board must give a person reasonable assistance to make a complaint upon request, and anti-victimisation protections apply (ss 35-36).

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	<p>complaints; and</p> <ul style="list-style-type: none"> identifying, inquiring into and reviewing issues relating to matters that may be complained about under the Act.¹³⁸ 	<p>matter,¹⁴² and has compulsory information-gathering, search and inquiry powers in aid of those functions.¹⁴³ The Commissioner also has certain reporting obligations – eg, to report annually to Parliament on the Commissioner’s activities, and to report on the funding arrangements for independent</p>	<p>indicated that it will not deal with complaints about NDIS-funded services where the matter giving rise to the complaint arose after 1 July 2019, on the basis that the NDIS Quality and Safeguards Commission will manage these matters.¹⁵²</p> <p>Complaints may be made on a range of bases – for instance,</p>		<p>abuse.¹⁶⁰ The Director of the Office of Ageing Well, a member of the Adult Safeguarding Team, may take a range of actions in response to a report of abuse, including referring the matter to State authorities and seeking protective court orders.¹⁶¹</p>		<p>registered workers or students, and dealing with them itself if they concern unregistered workers.¹⁶³</p> <p>The Board has a range of powers in relation to complaints against registered disability workers – eg, to refer a complaint for conciliation, counsel the relevant worker, conduct an investigation, or</p>	

¹³⁸ *Human Rights Commission Act 2005* (ACT) ss 21, 14(1).

¹⁴² *Ageing and Disability Commissioner Act 2019* (NSW) s 13(5).

¹⁴³ *Ageing and Disability Commissioner Act 2019* (NSW) ss 16-19.

¹⁵² Health and Community Services Complaints Commission (NT), *Annual Report 2018/19* (9 January 2020) 37.

¹⁶⁰ *Ageing and Adult Safeguarding Act 1995* (SA) s 19.

¹⁶¹ *Ageing and Adult Safeguarding Act 1995* (SA) ss 25-31.

¹⁶³ *Disability Service Safeguards Act 2018* (Vic) ss 39(2)-(4).

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		<p>disability advocacy, information and representative organisations in the State.¹⁴⁴</p> <p>The <i>Community Services (Complaints, Reviews and Monitoring) Act 1993</i> (NSW) empowers the Ombudsman to improve the delivery of community services, including services under the <i>Disability</i></p>	<p>that a provider acted unreasonably in providing or refusing to provide a service, in denying or restricting access to records or other information, or in not responding to a complaint.¹⁵³</p> <p>Upon receiving a complaint, the Commissioner must either:</p> <ul style="list-style-type: none"> • refer it for conciliation 				<p>take other appropriate action.¹⁶⁴ It has more limited powers in respect of students.¹⁶⁵</p> <p>The Commission also has similar powers to deal with complaints against unregistered disability workers.¹⁶⁶</p> <p>Where a registered NDIS provider or employee thereof is the subject of the complaint, the Board or Commission must</p>	

¹⁴⁴ *Ageing and Disability Commissioner Act 2019* (NSW) ss 25-28.

¹⁵³ *Health and Community Services Complaints Act 1998* (NT) s 23(1). A reference to acting unreasonably in the provision of a service includes, eg, failing to exercise due care and skill, respect a service user's privacy or dignity, or provide the user with adequate information on certain matters (see s 23(2)).

¹⁶⁴ *Disability Service Safeguards Act 2018* (Vic) s 41(1).

¹⁶⁵ *Disability Service Safeguards Act 2018* (Vic) s 41(2).

¹⁶⁶ *Disability Service Safeguards Act 2018* (Vic) s 47(1).

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		<p><i>Inclusion Act 2014</i> (NSW).¹⁴⁵</p> <p>The Ombudsman may review the situation of a person or group 'in care' and report on any steps that should be taken to promote their welfare or interests.¹⁴⁶ This includes a person residing in an assisted boarding house but does not extend to NDIS participants generally.¹⁴⁷</p>	<p>(see Part 6 of the Act);</p> <ul style="list-style-type: none"> investigate the complaint;¹⁵⁴ deal with the complaint under Part 8 (which relates to referral arrangements between the Commissioner and certain Boards in respect of complaints against providers registered 				<p>refer the complaint to the NDIS Commission, but may also deal with the matter itself at the same time.¹⁶⁷</p> <p>Further safeguards are set out in the <i>Disability Act 2006</i> (Vic), outlined above.</p>	

¹⁴⁵ *Community Services (Complaints, Reviews and Monitoring) Act 1993* (NSW) s 11(1). See also s 4(1), paragraph (e) of the definition of 'community welfare legislation'.

¹⁴⁶ *Community Services (Complaints, Reviews and Monitoring) Act 1993* (NSW) s 13.

¹⁴⁷ *Community Services (Complaints, Reviews and Monitoring) Act 1993* (NSW)s 4(1), 13(6).

¹⁵⁴ See Part 7 of the *Health and Community Services Complaints Act 1998* (NT), which confers certain powers to obtain information, examine witnesses and search premises under warrant.

¹⁶⁷ *Disability Service Safeguards Act 2018* (Vic) ss 46, 52.

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		The Ombudsman can also receive complaints about the conduct of service providers. The complaints management provisions of the <i>Ombudsman Act 1974</i> (NSW) apply in such cases. ¹⁴⁸ Broadly, Part 3 of that Act empowers the Ombudsman to conciliate or conduct investigations into complaints, hold inquiries, engage expert assistance, and exercise certain information-gathering powers.	by those Boards); <ul style="list-style-type: none"> • refer the complaint to certain other relevant persons or bodies; or • take no further action (eg, where the complaint is frivolous or vexatious). ¹⁵⁵					
Public advocates	The <i>Human Rights Commission Act</i>	In New South Wales, the role of the Public	In the Northern Territory, the role of the	The Public Advocate	The <i>Guardianship and</i>	The <i>Guardianship and Administration</i>	Part 2 of the <i>Guardianship and Administration</i>	Part 8 of the <i>Guardianship and</i>

¹⁴⁸ *Community Services (Complaints, Reviews and Monitoring) Act 1993* (NSW) Part 4.

¹⁵⁵ *Health and Community Services Complaints Act 1998* (NT) ss 27, 30.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
and guardians	<p>2005 (ACT), as well as providing for the role of the disability and community services commissioner, establishes the public advocate.¹⁶⁸ The public advocate's functions relevantly include:</p> <ul style="list-style-type: none"> • advocating for the rights of people with disability, including by: <ul style="list-style-type: none"> ○ promoting their protection from 	<p>Guardian focusses largely on matters specific to guardianship or administration (eg, acting as the guardian for a person where appointed to do so, or performing other supportive or monitoring functions in relation to guardianship).¹⁷⁰</p>	<p>Public Guardian focusses largely on matters specific to guardianship or administration (eg, acting as the guardian for a person where appointed to do so, or performing other supportive or monitoring functions in relation to guardianship).¹⁷¹ However, the Public Guardian's functions do extend to:</p> <ul style="list-style-type: none"> • advocating for adults with 	<p>Chapter 9 of the <i>Guardianship and Administration Act 2000</i> (Qld) establishes the office of the Public Advocate. The Public Advocate is an independent statutory appointee with systemic advocacy functions relating to adults with impaired capacity. These include:</p> <ul style="list-style-type: none"> • protecting and promoting the rights of 	<p><i>Administration Act 1993</i> (SA) establishes the office of the Public Advocate.¹⁷⁷ The Public Advocate is an independent statutory appointee who performs protective and advocacy functions in relation to 'mentally incapacitated persons'.¹⁷⁸ The Public Advocate is responsible for matters such as:</p>	<p><i>Act 1995</i> (Tas) establishes the office of the Public Guardian.¹⁸⁰ The Public Guardian, in addition to acting as guardian for a person with impaired capacity where appointed to do so, has functions such as:</p> <ul style="list-style-type: none"> • fostering the provision of services and facilities for people with disability; • supporting the establishment of 	<p><i>Act 2019</i> (Vic) makes provision for the role of the Public Advocate, a statutory office established to perform certain safeguarding functions in relation to people with disability.</p> <p>The Public Advocate may be appointed as a guardian or administrator for a person, and exercises certain other supervisory and investigative powers in respect of other</p>	<p><i>Administration Act 1990</i> (WA) establishes the office of the Public Advocate.¹⁸⁶ The Public Advocate performs a range of functions in relation to people with impaired decision-making capacity in the field of guardianship and administration, including:</p> <ul style="list-style-type: none"> • investigating complaints or allegations

¹⁶⁸ *Human Rights Commission Act 2005* (ACT) s 12(1)(g).

¹⁷⁰ See *Guardianship Act 1987* (NSW) Part 7.

¹⁷¹ See *Guardianship of Adults Act 2016* (NT) Part 4.

¹⁷⁷ *Guardianship and Administration Act 1993* (SA) s 18.

¹⁷⁸ 'Mental incapacity' is defined in s 3(1) of the *Guardianship and Administration Act 1993* (SA) as the inability of a person to look after their own health, safety or welfare, or manage their own affairs, as the result of certain specified matters. See also s 21(2).

¹⁸⁰ *Guardianship and Administration Act 1995* (Tas) s 14.

¹⁸⁶ *Guardianship and Administration Act 1990* (WA) s 91.

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	<p>abuse and exploitation; and</p> <ul style="list-style-type: none"> ○ fostering the provision of services, facilities and programs for the benefit of people with disability; and ○ supporting the establishment of organisations that support people with disability; and 		<p>impaired decision-making capacity generally; and</p> <ul style="list-style-type: none"> ● providing education about, undertaking research into and advising the Minister on issues relating to adults with impaired decision-making capacity (including their rights and interests, support services and relevant laws).¹⁷² 	<p>adults with impaired capacity;</p> <ul style="list-style-type: none"> ● protecting such adults from neglect, exploitation or abuse; ● encouraging the development of programs to help such adults achieve the greatest practicable degree of autonomy; and ● promoting and monitoring the provision of services and facilities to such adults.¹⁷³ 	<ul style="list-style-type: none"> ● monitoring programs designed to meet the needs of mentally incapacitated persons, and recommending the development of new programs in areas of unmet need; ● promoting the rights and interests of mentally incapacitated persons, and speaking for and negotiating on their behalf to resolve 	<p>organisations and encouraging the development of programs that support people with disability;</p> <ul style="list-style-type: none"> ● promoting, speaking for and protecting the rights and interests of people with disability, and dealing with service providers on their behalf; and ● investigating, reporting on and making recommendations to the Minister on matters 	<p>guardians and administrators.¹⁸⁴</p> <p>The Public Advocate has powers in respect of certain premises in which people with disability may reside, such as residential facilities under the <i>Disability Act 2006</i> (Vic), mental health services, specialist disability accommodation under the NDIS, and supported residential services.¹⁸⁵</p>	<p>that a person is in need of a guardian or administrator, or is under inappropriate guardianship or administration; and</p> <ul style="list-style-type: none"> ● seeking assistance on behalf of any person subject to a guardianship or administration order or application (eg, assistance from government or a service provider), or arranging legal

¹⁷² *Guardianship of Adults Act 2016* (NT) s 61(1)(g)-(i), (2).

¹⁷³ *Guardianship and Administration Act 2000* (Qld) ss 209, 211.

¹⁸⁴ *Guardianship and Administration Act 2019* (Vic) s 16(1).

¹⁸⁵ *Guardianship and Administration Act 2019* (Vic) ss 17(1), (7).

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
	<ul style="list-style-type: none"> o dealing, on behalf of people with disability, with entities providing services.¹⁶⁹ 			<p>The Public Guardian</p> <p>The Public Guardian has similar functions under the <i>Public Guardian Act 2014</i> (Qld). In addition to acting as a guardian or attorney for a person, where so appointed, its functions include:</p> <ul style="list-style-type: none"> • protecting adults with impaired capacity from neglect, 	<p>problems arising out of that incapacity; and</p> <ul style="list-style-type: none"> • advising on the exercise of powers under, and monitoring the administration of, the Act.¹⁷⁹ 	<p>relating to the operation of the Act.¹⁸¹</p> <p>The Public Guardian has power to do all things necessary or convenient to be done in connection with the performance of those functions,¹⁸² and may also investigate complaints relating to guardians, administrators and attorneys.¹⁸³</p>		<p>representation for the person.¹⁸⁷</p> <p>The Public Advocate may do all things necessary or convenient to be done for or in connection with the performance of those functions,¹⁸⁸ and may raise or report to the Minister on any concerns arising out of those matters.¹⁸⁹ On request by the</p>

¹⁶⁹ *Human Rights Commission Act 2005* (ACT) s 27B.

¹⁷⁹ *Guardianship and Administration Act 1993* (SA) s 21(1).

¹⁸¹ *Guardianship and Administration Act 1995* (Tas) s 15(1).

¹⁸² *Guardianship and Administration Act 1995* (Tas) s 15(2).

¹⁸³ *Guardianship and Administration Act 1995* (Tas) s 17(1).

¹⁸⁷ *Guardianship and Administration Act 1990* (WA) s 97(1).

¹⁸⁸ *Guardianship and Administration Act 1990* (WA) s 97(2).

¹⁸⁹ *Guardianship and Administration Act 1990* (WA) s 101A(1).

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
				exploitation or abuse; • administering the community visitor program established by the Act; • investigating, mediating and conciliating complaints regarding attorneys, guardians and administrators; and • seeking help (eg, from government or service providers) or making representations for adults with				Public Advocate, the Minister must table a report of such a matter in parliament. ¹⁹⁰

¹⁹⁰ *Guardianship and Administration Act 1990* (WA) s 101A(2).

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
				<p>impaired capacity.¹⁷⁴</p> <p>The Public Guardian may:</p> <ul style="list-style-type: none"> investigate complaints or allegations that an adult with impaired capacity has been neglected, abused or exploited, or has inappropriate or inadequate decision-making arrangement s;¹⁷⁵ exercise protective powers for adults with impaired capacity – eg: 				

¹⁷⁴ *Public Guardian Act 2014* (Qld) s 12(1).

¹⁷⁵ *Public Guardian Act 2014* (Qld) s 19.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
				<ul style="list-style-type: none"> – take legal action on their behalf where the person's property is wrongfully taken, or money is payable to them; or – seek tribunal orders empowering the Public Guardian to remove such an adult from a place at which they are at 				

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
				immediate risk of harm due to neglect, exploitation or abuse. ¹⁷⁶				
Community visitor	The official visitor scheme for the ACT is established under the <i>Official Visitor Act 2012</i> (ACT). This sets out the broad framework for the appointment of official visitors by the Minister, while other pieces of legislation specify visitable places. Relevantly, Part 3 of the <i>Disability Services Act 1991</i> (ACT) extends the scheme to places	Part 4 of the <i>Ageing and Disability Commissioner Act 2019</i> (NSW) establishes an Official Community Visitor scheme, and provides for the Minister to appoint appropriately qualified community visitors for 3-year terms. ¹⁹⁶	Part 6 of the <i>Disability Services Act 1993</i> (NT) establishes a community visitor program for government-operated residential facilities in the Northern Territory. It does not apply to specialist disability	Chapter 3, Part 6 of the <i>Public Guardian Act 2014</i> (Qld) establishes a community visitor scheme to protect the rights and interests of consumers at 'visitable sites'. ²⁰² Visitable sites are: <ul style="list-style-type: none"> • forensic disability services, and authorised mental health 	Part 7 of the Act provides for the Governor, by regulation, to establish a community visitor scheme relating to the Act. However, no such scheme has yet been prescribed, and the <i>Disability Services (Community Visitor Scheme) Regulations 2013</i> (SA) made	Tasmania does not have statutory community visitor schemes for disability services generally. However, it does have a scheme for mental health facilities under the <i>Mental Health Act 2013</i> (Tas) which perform broadly similar functions to the schemes	The two most relevant community visitor schemes in Victoria are those established under the <i>Supported Residential Services (Private Proprietors) Act 2010</i> (Vic) and the <i>Disability Act 2006</i> (Vic). The <i>Supported Residential Services (Private Proprietors) Act 2010</i> (Vic) broadly	Western Australia does not have statutory community visitor schemes for disability services generally. However, it does have an advocacy scheme for mental health facilities, under the <i>Mental Health Act 2014</i> (WA), which

¹⁷⁶ *Public Guardian Act 2014* (Qld) ss 33, 36.

¹⁹⁶ *Ageing and Disability Commissioner Act 2019* (NSW) s 21(1)-(2).

²⁰² *Public Guardian Act 2014* (Qld) s 40.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
	<p>used to provide accommodation to people with disability for respite or long-term residential purposes. This includes:</p> <ul style="list-style-type: none"> • accommodation owned, rented or operated by a specialist disability service provider; • accommodation at which a specialist disability service provider provides a specialist disability service; and • a residential aged care facility that accommodate 	<p>Community visitors have a range of powers in relation to premises at which 'visitable services' are provided. A 'visitable service' is:</p> <ul style="list-style-type: none"> • an accommodation service where an adult with disability using the service is in the full-time care of the service provider; or • an assisted boarding house. <p>'Service provider' includes the Minister,</p>	<p>accommodation under the NDIS.</p> <p>Individual community visitors have inquiry and complaints functions. This includes inquiring into and making recommendations relating to matters such as:</p> <ul style="list-style-type: none"> • the adequacy of information relating to complaints procedures, and to the rights of people receiving treatment and care at 	<p>services under the <i>Mental Health Act 2016</i> (Qld) that provide inpatient services;</p> <ul style="list-style-type: none"> • premises, other than private dwellings, at which NDIS participants with impaired capacity live and receive certain specified NDIS services (such as SDA or specialist positive behaviour support) from registered NDIS 	<p>under the 1993 Act continue to apply instead.</p> <p>Under the 1993 scheme, community visitors may visit 'disability accommodation premises' and 'day options programs'. The former refers to any premises at which a State-funded disability services provider is providing accommodation services to people with disability (including short term</p>	<p>outlined for other jurisdictions.²¹⁰</p>	<p>deals with the provision of supported accommodation by private entities for people with disability and others. It does not apply to residential services covered by the <i>Disability Act 2006</i> (Vic), or SDA enrolled dwellings under the NDIS.</p> <p>Visitors may attend any supported residential service in the region for which they are appointed, and determine:</p> <ul style="list-style-type: none"> • whether services are being delivered 	<p>perform broadly similar functions to the schemes outlined for other jurisdictions.²²⁰</p>

²¹⁰ *Mental Health Act 2013* (Tas) Part 2.

²²⁰ *Mental Health Act 2014* (WA) Part 20.

Topic	Australian Capital Territory	New South Wales	Northern Territory	Queensland	South Australia	Tasmania	Victoria	Western Australia
	<p>s a person with disability.¹⁹¹ These provisions appear capable of applying to specialist disability accommodation under the NDIS, and other premises at which a range of NDIS services are provided.¹⁹²</p> <p>The functions of official visitors in relation to</p>	<p>accommodation providers funded by the Minister, the owner or occupier of an assisted boarding house, and NDIS providers delivering supports and services under an NDIS participant's plan (other than providers of residential aged care).¹⁹⁷ Community visitors have a</p>	<p>residential facilities;</p> <ul style="list-style-type: none"> • the accessibility of complaint procedures; • the failure of persons employed in residential facilities to comply with the Act; and • the use of restrictive interventions.²⁰⁰ <p>Community visitors must also receive and facilitate the resolution of residents'</p>	<p>providers; and</p> <ul style="list-style-type: none"> • the additional sites, other than private dwellings, set out in Schedule 1 of the <i>Public Guardian Regulation 2014</i> (Qld). Broadly, these include places at which adults with impaired capacity live. Accordingly, certain NDIS-related 	<p>accommodation, such as respite care). A day options program is a daytime program provided to an eligible person at premises other than their usual place of residence for the purpose of developing life-skills, further learning or recreation.²⁰⁶ Accordingly, visitors cannot</p>		<p>to residents in accordance with the principles and standards set by the Act;</p> <ul style="list-style-type: none"> • the status of any complaint made by or on behalf of a resident and the progress of its resolution; and • any other issue or concern raised by or on behalf of a resident.²¹¹ <p>Community visitors can attend without</p>	

¹⁹¹ *Disability Services Act 1991* (ACT) s 8B(1).

¹⁹² 'Specialist disability service provider' is defined in s 5 of the Act as a person or entity that provides specialist disability services (subject to certain exclusions). 'Specialist disability services' are defined in s 4 and specified in Schedule 1 of the *Disability Services (Specialist Disability Service Types) Declaration 2014* (ACT) (No 1) in terms that would appear to capture a range of NDIS services.

¹⁹⁷ *Ageing and Disability Commissioner Act 2019* (NSW) s 20; *Ageing and Disability Commissioner Regulation 2019* (NSW) s 6.

²⁰⁰ *Disability Services Act 1993* (NT) s 55(1).

²⁰⁶ *Disability Services (Community Visitor Scheme) Regulations 2013* (SA) s 3. 'Eligible person' means an adult person with a disability who has, in connection with a funding arrangement under a law of South Australia or the Commonwealth, been assessed as unable to work or undertake formal study.

²¹¹ *Supported Residential Services (Private Proprietors) Act 2010* (Vic) s 184.

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	<p>visitable places include:</p> <ul style="list-style-type: none"> • attending, and meeting people with disability at, those places; • monitoring conditions, services and practices; • investigating and seeking to resolve the complaints of people with disability (including by referring them to relevant entities); • identifying and reporting on systemic issues affecting 	<p>range of powers, including:</p> <ul style="list-style-type: none"> • entering and inspecting premises at which visitable services are provided (which can be done at any reasonable time); • conferring with residents or employees at the premises, and inspecting documents relating to the 	<p>complaints, and help residents to make complaints or apply for review or appeal of certain decisions under the Act.²⁰¹</p>	<p>premises are visitable. However, the Act would not allow community visitors to attend private homes.</p> <p>Community visitors must regularly attend visitable sites, at which they exercise inquiry and complaint functions.²⁰³ The former include inquiring into and reporting to the Public Guardian on:</p> <ul style="list-style-type: none"> • the adequacy, appropriateness and 	<p>attend private homes.</p> <p>Community visitors are to visit such premises and inquire into matters such as:</p> <ul style="list-style-type: none"> • the appropriateness and standard of the premises; • whether the relevant services are being provided in accordance with the principles and objectives of the Act; 		<p>notice, for any period they think fit.²¹² During a visit, a visitor may look at any part of the relevant premises, speak with residents, question employees and examine certain records.²¹³ Proprietors and staff cannot obstruct or unreasonably refuse to assist community visitors, and must answer their questions.²¹⁴</p> <p>Community visitors report to</p>	

²⁰¹ *Disability Services Act 1993* (NT) s 56.

²⁰³ *Public Guardian Act 2014* (Qld) ss 41(1), 42(1).

²¹² *Supported Residential Services (Private Proprietors) Act 2010* (Vic) s 186(1).

²¹³ *Supported Residential Services (Private Proprietors) Act 2010* (Vic) s 187.

²¹⁴ *Supported Residential Services (Private Proprietors) Act 2010* (Vic) ss 188–190.

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	<p>people with disability at the relevant places; and</p> <ul style="list-style-type: none"> reporting to the relevant Minister for the place.¹⁹³ <p>A complaint can be made to the official visitor about any aspect of a relevant person's accommodation (including the care or services provided, and how the place is conducted).¹⁹⁴</p> <p>Where an official visitor reasonably believes that a visitable place</p>	<p>operation of the service;</p> <ul style="list-style-type: none"> informing the Minister and Commissioner about the conduct of the premises, and matters affecting the welfare, interests and conditions of persons using visitable services; encouraging the promotion of service-users' legal and human rights; 		<p>standard of certain services at the site;</p> <ul style="list-style-type: none"> whether those services are the least restrictive of consumers' rights; the adequacy of information given to consumers at the site; and the accessibility and effectiveness of complaints procedures.²⁰⁴ <p>Their complaints functions involve inquiring into and seeking</p>	<ul style="list-style-type: none"> any cases of abuse or neglect (or suspicions thereof); the use of restrictive interventions and compulsory treatment; any failure to comply with the Act or a performance agreement between the provider and the Minister; and any complaints made to the visitor.²⁰⁷ <p>Visitors are also to refer matters of concern</p>		<p>the Public Advocate and Minister.²¹⁵</p> <p>The <i>Disability Act 2006</i> (Vic) also establishes a community visitor scheme.</p> <p>Community visitors are responsible for visiting:</p> <ul style="list-style-type: none"> any premises where a State-registered disability service provider is providing residential services; and 	

¹⁹³ *Official Visitor Act 2012* (ACT) s 14(1).

¹⁹⁴ *Official Visitor Act 2012* (ACT) s 22.

²⁰⁴ *Public Guardian Act 2014* (Qld) s 41(2).

²⁰⁷ *Disability Services (Community Visitor Scheme) Regulations 2013* (SA) s 4(1)(a)-(ab).

²¹⁵ *Supported Residential Services (Private Proprietors) Act 2010* (Vic) ss 194-195.

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	does not comply with relevant governing legislation, they must report the matter to the relevant Minister (and may also report it to certain other relevant bodies). ¹⁹⁵	<ul style="list-style-type: none"> providing information to service-users about independent advocacy services, and, when appropriate, assisting them to obtain those services; and facilitating the resolution of grievances or concerns affecting service-users by referring them to service-providers or other appropriate bodies.¹⁹⁸ 		to resolve complaints, and referring them to appropriate bodies (eg, the NDIS Commissioner). ²⁰⁵	relating to the organisation or delivery of disability services in South Australia to the Minister, and act as advocates for residents and program attendees to resolve issues relating to their care, treatment or control. ²⁰⁸		<ul style="list-style-type: none"> 'SDA enrolled dwellings' housing 'SDA residents'; and short-term accommodation and assistance dwellings at which support is provided by registered NDIS providers to NDIS participants.²¹⁶ <p>When visiting such premises, community visitors are to inquire into various matters, including:</p> <ul style="list-style-type: none"> the appropriateness and standard of the premises for the 	

¹⁹⁵ *Official Visitor Act 2012* (ACT) s 16.

¹⁹⁸ *Ageing and Disability Commissioner Act 2019* (NSW) s 22(1).

²⁰⁵ *Public Guardian Act 2014* (Qld) s 41(3).

²⁰⁸ *Disability Services (Community Visitor Scheme) Regulations 2013* (SA) s 4(1)(b)-(c).

²¹⁶ *Disability Act 2006* (Vic) ss 30, 30A. The definition of 'short-term accommodation and assistance dwelling' in s 3(1) excludes private homes.

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		The Act also prohibits the victimisation of a person who complains to a community visitor. ¹⁹⁹			visitors only attend State-funded accommodation sites. ²⁰⁹		<p>accommodation of residents;</p> <ul style="list-style-type: none"> • whether the service is complying with relevant laws and standards; • any complaints, or cases of suspected abuse or neglect; and • the use of restrictive practices and compulsory treatment.²¹⁷ <p>The Act also continues in existence the Community Visitors Board, which is responsible for representing visitors, explaining their role to the public,</p>	

¹⁹⁹ *Ageing and Disability Commissioner Act 2019* (NSW) s 24.

²⁰⁹ Government of South Australia, *Community Visitor Scheme* (Web Page) <<https://communityvisitorscheme.sa.gov.au/about-us>>.

²¹⁷ *Disability Act 2006* (Vic) ss 30, 30A(1)-(3).

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							and reporting to the Public Advocate or Minister on certain matters. ²¹⁸ It may also refer matters of concern to appropriate bodies (such as the Secretary, the Disability Service Commissioner, the NDIS Commission or the NDIA). ²¹⁹	

²¹⁸ *Disability Act 2006* (Vic) s 32.

²¹⁹ *Disability Act 2006* (Vic) s 33.