



SENATOR JORDON STEELE - JOHN
AUSTRALIAN GREENS
SENATOR FOR WESTERN AUSTRALIA

The Hon Scott Morrison MP
Prime Minister of Australia
Parliament House
CANBERRA ACT 2600

Dear Prime Minister Morrison,

I was heartened by your assurance today in the House that you remain open to every single option there is to provide support to disabled people, including the possibility of an urgent Royal Commission into the lived reality of violence, abuse, exploitation and neglect that so many people in my community face every single day.

As you would know, the NDIS Quality and Safeguards Commission can only respond to and address complaints as they relate to participants of the NDIS, which in turn only captures about 10 per cent of Australia's disabled community. Only a Royal Commission has the powers and scope necessary to investigate the full extent of the violence, abuse, exploitation and neglect of disabled people in Australia.

I was surprised to hear that one of the primary reasons given in your comments to the house relating to the Government's inaction in this area was the absence of a terms of reference being provided to you – particularly given the government did not require the pre-existence of a terms of reference before calling the Aged Care Royal Commission.

Despite this, I am happy to inform you that after considerable work by myself, my team and the disability sector overnight I am now able to offer you a draft terms of reference which will serve as an adequate starting point for broader consultation.

Please find the attached these draft Terms of Reference.

Given the seriousness of this issue and your comments in the House today, I urge you to immediately begin the necessary proceedings to establish a Royal Commission into the Violence, Abuse, Exploitation and Neglect of Disabled People in Institutional and Residential Settings.

I look forward to working with you to finally deliver justice for disabled Australians and their families.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'J. Steele-John', with a long horizontal flourish extending to the right.

Senator Jordon Steele-John

DRAFT TERMS OF REFERENCE:

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

XXXXX

XXXXX

XXXXX

GREETING

WHEREAS all disabled people denial of autonomy, and the right to make choices and to live in freely chosen settings.’

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect disabled people from violence, abuse, exploitation and neglect, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of violence, abuse, exploitation and neglect against disabled people

AND all forms of violence, abuse, exploitation and neglect are gross violations of a disabled person’s right to this protection and, in many cases constitute crimes under Australian law and / or torture, or cruel, inhuman or degrading treatment or punishment, and may be accompanied by other unlawful or improper treatment of disabled people, denial of autonomy, and the right to make choices and to live in freely chosen settings.

AND violence, abuse, exploitation and neglect and other related unlawful or improper treatment of disabled people have a long-term cost to individuals, the economy and society.

AND public, private, residential and service institutions, including child-care, cultural, educational, religious, sporting and other institutions and residential settings, aim to provide important services and support for disabled people

AND it is important that claims of systemic failures in relation to allegations and incidents of violence, abuse, exploitation and neglect of disabled Australians and any related unlawful or improper treatment of disabled people be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of violence abuse and neglect against disabled people and to respond appropriately when any allegations and incidents of violence, abuse, and neglect of disabled people occur, including holding perpetrators to account and providing justice and redress to victims.

AND it is important that disabled people can share their experiences to assist with recovery and healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into the violence, neglect, exploitation and abuse of disabled people, and in particular, without limiting the scope of your inquiry, the following matters:

- a. the experiences of people directly or indirectly affected by violence, abuse, exploitation and neglect perpetrated against disabled people in institutional, residential and any other contexts;
- b. the gender, and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability and CALD people with disability;
- c. the impact of violence, abuse, exploitation and neglect on disabled people, their families, advocates, support persons, current and former staff and Australian society as a whole;
- d. what should be done to eliminate or reduce the incidence and prevalence of all forms of violence, abuse and neglect perpetrated against disabled people in institutional, residential and any other setting or contexts;
- e. the responses to violence, abuse, exploitation and neglect against disabled people, as well as to whistle-blowers, by every organisational level of institutions and residential settings, including governance, risk management and reporting practices;
- f. the different legal, regulatory, policy, governance and data collection frameworks and practices across the Commonwealth, states and territories to address and prevent violence, abuse, exploitation and neglect against disabled people;
- g. Australia's compliance with its international obligations as they apply to the rights of disabled people;
- h. role and challenges of formal and informal disability advocacy in preventing and responding to violence, abuse, exploitation and neglect against disabled people;
- i. identifying the systemic workforce issues contributing to the violence, abuse and neglect of disabled people and how these can be addressed;
- j. the role of the Commonwealth, states and territories in preventing violence and abuse against disabled people;
- k. the challenges that arise from moving towards an individualised funding arrangement, like the National Disability Insurance Scheme, including the capacity of service providers to identify, respond to and prevent instances of violence, abuse, exploitation and neglect against disabled people.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry which may consider appropriate, We direct you, for the purposes of your inquiry

recommendations, to have regard to the following matters:

- l. what elements are required in a national framework that can safeguard disabled people from all forms of violence, abuse, exploitation and neglect in institutional, residential and other settings and contexts.
- m. what should be done to eliminate barriers for responding to violence, abuse, exploitation and neglect perpetrated against people in institutional, residential and other settings and contexts, including addressing failures in, and barriers to, reporting, investigating and responding to allegations and incidents of violence abuse, exploitation and neglect;
- n. what institutions and governments should do to protect disabled people from violence, abuse, exploitation and neglect in institutional, residential and other settings and contexts in the future, including best practice in regards to prevention, effective reporting and responses;

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

- o. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- p. the need to establish investigation units to support your inquiry;
- q. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in violence, abuse, exploitation and neglect or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- r. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- s. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We declare that in these Our Letters Patent:

- t. 'institutional and residential settings' is broadly defined to include the types of institutions that disabled people often experience, including, but not restricted to: residential institutions; boarding houses; room houses; group homes; workplaces; respite care services; day centres; recreation programs; mental health facilities; hostels; supported accommodation; prisons; schools; out-of-home care; special schools; boarding schools; school buses; school camps, trips or activities where students are under care outside of the school environment; hospitals; juvenile justice facilities; disability services; and aged care facilities; and

- u. ‘violence, abuse and neglect’ is broadly understood to include, but is not limited to: domestic, family and interpersonal violence; physical and sexual violence and abuse; psychological or emotional harm and abuse; constraints and restrictive practices; forced treatments and interventions; humiliation and harassment; financial abuse; violations of privacy; systemic abuse; physical and emotional neglect; passive neglect; and wilful deprivation.

AND We:

- v. require you to begin your inquiry as soon as practicable, and
- w. require you to make your inquiry as expeditiously as possible; and
- x. require you to submit to Our Governor-General:
 - a. first and as soon as possible, and in any event not later than (insert date) (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than (insert date), to be fixed for the submission of your final report; and
 - b. then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and
- y. authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent

XXXXXX

XXXXXX

XXXXXX

