



Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

OVERVIEW OF CAPABILITY

01 What do we need to do?

Although much about the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* is still yet to be determined, the terms of reference have now been finalised, and there is good use that can be made of the time between now and when the Commission is fully 'stood up' in the next couple of months.

- **Understand the function and operation of a Royal Commission** – Seek legal advice about the Royal Commission process, as well as the obligations arising from the inquiry.
- **Identify likely vulnerabilities in your organisation** – Don't be caught unprepared and ill-equipped to deal with the complexity of requests. In the Financial Services Royal Commission, companies were given six weeks to respond to requests. If inadequate or incomplete responses are given, with insufficient detail, your organisation could be the subject of criticism.
- **Organise your external legal team** – Preparation work conducted by your internal legal team may not always be covered by legal professional privilege. Your organisation should create a plan of attack with your legal team, covering issues and topics which may be of interest to the Commission; these issues and topics may include areas of risk / exposure faced by your organisation.
- **Be appropriately resourced** – Ensure you are resourced so that you can identify areas of concern, review complaints, and identify document management systems to work out where relevant data is (e.g. PCs, phones), and how to best extract that data. This will ensure that your organisation is able to appropriately respond to the very significant requests from the Royal Commission (often 10,000+ documents at a time).
- **Create a designated response team** – Consider who in your organisation will be tasked with organising your responses (a 'response team'). Will there be a central point of contact for internal and external correspondence? Your organisation may subsequently wish to prepare a briefing paper for governing bodies.
- **Evaluate your insurance position** – Are all executives and directors adequately covered by your organisation's insurance policies, and any Deeds of Access, Indemnity & Insurance? What is the extent of coverage for ex-executives, ex-directors and other employees?

02 How can Mills Oakley assist?

Inquiries and Royal Commission Experience

Our proposed core team has experience across a range of matters, involving Royal Commissions, inquests and public inquiries, as well as the high-profile and large scale litigation that often emerges after their completion. Mills Oakley currently acts for over 100 aged care service providers across Australia in relation to the Royal Commission into Aged Care Quality and Safety.

We are experienced in supporting organisations through these challenging and sensitive processes, and recognise that these types of matters require significant levels of understanding and empathy, balanced with the discipline and focus required to best represent and protect the interests of the organisation.

Our team can assist with:

1. Working with your leadership team to establish approach, identify potential issues which may be of interest to the Disability Royal Commission and assist your organisation with preparing for an inquiry which will be nothing like you have experienced before. Specifically, we can:
 - a) Advise as to the composition of a working party for the day to day management of Disability Royal Commission issues;
 - b) Outline the design of the initial data collection exercise;
 - c) Determine the 'style' of engagement that your organisation feels is appropriate, given the organisation's position within the sector, relevant stakeholders, past issues with regulators, any changes in leadership / cultural regeneration in recent years; and
 - d) Draw up a working plan for the first stage of work, so as to best place your organisation for when it receives the initial Summons / Notice to Produce / request for information from the Disability Royal Commission so that your organisation's response is considered, manageable and strategic.
2. Advising and assisting with responses to the Disability Royal Commission, including the identification of issues, production of documents including claims for privilege and confidentiality, and preparation of witnesses and representation at hearings including management of reputational issues.
3. Advising and assisting generally in governance and organisational procedures for where improvements can be made, to anticipate as many as possible the recommendations of the Disability Royal Commission and best place you to meet those recommendations to ensure your organisation is 'fit for the future'.

IT & Personnel Capacity for Document Management

Our team is experienced in managing large volumes of documents in large and complex matters, particularly in the context of litigation, Royal Commissions and inquiries. Each of the relevant engagements referred to above have required the management of caches of documents in the many thousands (and in some of our larger matters, over 1,000,000 records).

To conduct reviews of documents in relation to Notices to Produce / Summonses, we would generally use internal personnel as may be required. However, we would also engage and work together with a specialist information logistics provider to best project-manage large, document-intensive matters. The types of tasks we would generally outsource under this type of arrangement include documentary harvests, database creation and/or management, objective or numerical coding of documents for processing or production, and database extraction for production by our in-house personnel.

Work undertaken would be subject to scoping and agreement with you before commencement to ensure efficiency, appropriateness and cost effectiveness.

Disability Support Services Sector Expertise

We anticipate that for many disability providers, preparing for and responding to the Disability Royal Commission will expose deficiencies in the corporate governance of the organisation. Our Not-for-Profit & Social Enterprise team has expertise in:

- assessing the current board procedures of organisations, in order to ensure adequate performance as a governing body;
- identifying deficiencies in an organisation's internal policies, and advising on the development of policies that protect the organisation, its management, its clients, and its employees, including but not limited to risk management policies, Workplace Health and Safety (WHS) policies, internal dispute resolution mechanisms, Directors and Officers Liability (D&O) Insurance, Public Liability Insurance, Professional Indemnity Insurance, Deeds of Access, Indemnity & Insurance, and the applicability of any indemnities to ex-board members and ex-executives;
- assisting with the development of proper record keeping structures, in order to ensure compliance with all legal obligations, that documents can be produced efficiently, and that accurate information can be provided in response to any requests;
- assisting boards and executives with understanding their obligations, potential liabilities and their respective non-delegable duties; and
- advising organisations on their compliance with the soon to commence whistle-blower legislation, and the development of statutorily mandated internal whistle-blower policies.

03 Key Personnel



Luke Geary, Partner, Brisbane

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Luke is a Partner leading the Mills Oakley Not-for-Profit & Social Enterprise team in Brisbane and has extensive experience in the not-for-profit sector. Luke has been recognised as one of Australia's leading lawyers in the Non-Profit sector. Having worked extensively throughout the aged care, disability services, children's and welfare sectors, Luke is intimately aware of the issues facing organisations and other stakeholders operating within this environment.

Luke appeared as a legal advisor in a number of public hearings before the *Royal Commission into Institutional Responses to Child Sexual Abuse*, and he participated in many of the Royal Commission's roundtables (both public and private) for the development of policy positions. He further appeared before the Australian Senate Committee and worked with the Commonwealth Redress Taskforce in its design of the National Redress Scheme Act.

Luke currently acts for a range of aged care providers in the *Royal Commission into Aged Care Quality and Safety*, and is regularly briefed in major public inquiries and inquests on behalf of major social welfare organisations.



Louise Cantrill, Partner, Sydney

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As a Sydney based partner in Mills Oakley's Insurance team, Louise has over 20 years' experience as a risk specialist in both conflict resolution and front-end technical advice work.

Louise has developed specialist expertise in defending and managing litigation and risk across a broad range of health liability scenarios. Throughout her career, Louise has managed hundreds of matters involving medical and allied health professionals, practice groups, laboratories, specialist departments and service providers across a broad range of specialties and areas of expertise.

Louise leads Mills Oakley's national team representing approximately 100 aged care providers in their interactions with the *Royal Commission into Aged Care Quality and Safety*, supporting and guiding clients through the complex and multi-faceted challenges that this kind of very public and long term inquiry gives rise to. She works with clients to develop and implement plans to navigate the range of reputational, regulatory, litigation, risk management and insurance issues that are typically associated with a Royal Commission.



Vera Visevic, Partner, Sydney

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Vera is the head of the Mills Oakley Not-for-Profit & Social Enterprise team in Sydney. The practice provides legal education, advice and specialist legal counsel to some of Australia's leading not-for-profit organisations, including a number of large and small disability providers.

Vera is well recognised for her expertise in assisting organisations with complex governance issues, with such issues often arising as a result of mergers and large-scale restructures. Vera frequently advises on constitutional and internal policy issues, and has been asked on numerous occasions by organisations to provide governance training for new and existing board members.

Vera also edits the Community Care and Service modules in the LexisNexis Regulatory Compliance online register, which includes a sub-module designed to assist the management of NDIS providers, in complying with their legal obligations.