**South Australian
Community Visitor Scheme**

Level 3, 182 Victoria Square

ADELAIDE SA 5000

GPO Box 292

Adelaide SA 5001

Tel: 1800 606 302

Fax: 08 7424 7239

Email: cvs@sa.gov.au

www.sa.gov.au/cvs

Submission to the NDIS Quality and Safeguarding Framework

To whom it may concern,

The South Australian Community Visitor Scheme (CVS) welcomes the opportunity to provide a submission to the NDIS Quality and Safeguarding Framework.

The CVS is an independent statutory scheme that conducts regular visits and inspections of all emergency departments of hospitals, acute mental health units and disability accommodation and Supported Residential Facilities (SRFs). The Principal Community Visitor (PCV), Maurice Corcoran AM reports directly to the Minister for Mental Health on mental health issues and the Minister for Disability on disability issues. The PCV is required to provide an Annual Report to both Ministers by 30 September each year (links to Annual Reports are attached as appendix 1) and are tabled in both Houses of Parliament.

The CVS is in place to be a ‘safeguard’ and to independently check into the quality of care and support provided to people with a mental illness in acute care and to people with a disability in disability accommodation. The visits and inspections into disability accommodation commenced in 2012 and identified a significant cohort of individuals who had both an intellectual disability and very little if any communication, had little or no family involvement and were under the guardianship of either the Minister or Public Advocate.

From our experience over the past 4 years, we think it is vital that there be Community or Official Visitor programs to all institutions and residential facilities as an important means to detect violence, abuse and neglect of people with a disability, including those with a mental illness. Evidence from almost four years of operating also suggests that our Community Visitors build trusting relationships with not only service users but also staff who disclose many issues of concern relating to the care and treatment of vulnerable individuals.

**Brief background of the Community Visitor Scheme**

The CVS obtains its visits and inspection powers under the *SA Mental Health Act 2009* and specifically sections 50-54 which outlines the powers, functions and roles of the PCV and Community Visitors (CVs) (Attachment 2). The scheme commenced operation in July 2011 and requires two CVs to undertake the monthly visits and inspections and prepare a written report to the PCV. Issues identified at visits are recorded in reports and referred to the PCV when they are of a serious nature and/or are ‘systemic’. They are also transferred onto an ‘Issues Register’ that is tabled for discussion with the CVS Advisory Committee.

Many issues are referred directly back to services providers as a means of quality improvement and have been used systematically by managers to address quality. The CVS also reflects back observations of a positive nature i.e. when individual staff are observed or commended for exceptional work, and this is quite often promoted back within agencies and means a great deal to individuals and team moral.

In 2012, Regulations were developed under the SA *Disability Services Act 1993*, to enable the Community Visitor Scheme to expand out into disability accommodation and Supported Residential facilities (SRFs). For more details on this legislation or on the CVS, please refer to our website [Community Visitor Scheme](http://www.sa.gov.au/topics/citizens-and-your-rights/feedback-and-complaints/community-visitor-scheme)

**Submission**

The CVS visits and inspects approximately 10 group houses and SRFs per week in South Australia and approx. 34 acute mental health units per month. These visits must be undertaken by two Community Visitors at a time who are required to inspect all areas of the facilities and to engage with as many of the service users or residents that they are able to and to identify whether they have any issues or concerns. Many of the residents that CVs visit do not have any family nor informal supports and the CVS promotes itself as an ‘independent statutory scheme’ that they can disclose issues to and a scheme that can advocate on their behalf.

It is through these exchanges and comments from staff that the CVS builds a picture and both qualitative and quantitative data is collected on the experiences of people with a disability. This may include restrictive practices that are evident in facilities such as restraints on individuals, locks on doors, cupboards or fridges which CVs are then required to enquire into the assessments and paperwork to justify such restrictions.

The CVS also responds to requests to visit facilities and anyone who has a genuine interest in individuals who are in either mental health or disability facilities can request that we do a visit. Requests have been made to the CVS that have included serious allegations of abuse such sexual abuse, physical abuse, emotional and financial abuse and various types of neglect. Depending on a range of factors, the CVS may undertake a priority visit or may refer to another relevant authority such as the Police, Sexual Assault Unit, the Public Advocate or Health and Community Services Complaints Commissioner, the Chief Psychiatrist or the Minister for Mental Health or Minister for Disability.

It has been recognised both nationally and internationally that people with a disability and those with a mental illness are twice as likely to be physically and sexually abused than those without a disability. When individuals are dependent on personal care for all their personal needs such as washing, toileting and dressing they are going to be exposed to many individuals who provide this intimate care.

While there are many precautions such as security checks, protective behavior training etc., there remains significant risks for these individuals. What’s more, we also know that those with pedophilic tendencies will target those with intellectual and communication impairments. That is why it is so important to have safeguards in place to act as ‘watch-dogs’ and that perpetrators also know that they are at greater risk of being ‘found out’. To take these safeguards away would give out a clear signal to not only those in need of care but also those who are looking out for an easy target.

The Victorian CVS have reported a 37% increase in incidents of abuse, neglect and assaults across its mental health and disability streams during the 2013-14 year. They had 287 incidents compared to the previous year where there were 209 but also acknowledge that this is the tip of the ‘iceberg’ as many incidents are not reported.

The SA government has made a clear commitment to the CVS being in place as an Independent Statutory body that conducts regular visits and inspections to all the above facilities. CVs have the same powers as a health inspector and can request copies of any documents related to the care and treatment of service users.

***UN Convention on the Rights of People with a Disability* (UNCRPWD)**

Article 16 of the *UN Convention on the Rights of People with a Disability* (UNCRPWD) - (Freedom from exploitation, violence and abuse) compels States Parties, including Australia, who are a signatory to this Convention to address a number of measures that include: -

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

**3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programs designed to serve persons with disabilities are effectively monitored by independent authorities.**

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted

One of our major concerns that the CVS has with the move to the NDIS is for those individuals who have an intellectual disability, are non-verbal or have no means of communicating with others other than grunts, screams or facial expressions, have no family or informal supporters. Who will advocate for them and have an ongoing interest in their well-being and monitoring the services they receive?

This is one of the most rewarding positions I have had mainly because we get to go out and meet many individuals who are in this position and we are able to check up on them and ensure, as far as is possible, they are okay and leading the best possible lifestyle given their limitations. I sleep better knowing this and hopefully so do our Ministers but who will do this under an NDIS when safeguards are being questioned?

A national quality framework that can safeguard people with disability from violence, abuse and neglect in institutional and residential settings must have an independent monitoring scheme such as a Community Visitor Scheme.

As is required under Article 16.3 of the UNCRPWDs, all Australian facilities and programs designed to serve persons with disabilities should be effectively monitored by independent authorities. Monitoring bodies such as the SA CVS and Victorian CVS continue to report to respective Parliaments and can refer any incidents and/or suspicion of abuse and neglect to relevant authorities for formal investigation.

Thank you for the opportunity to provide a submission, please contact me directly to clarify any of the above responses.

Yours sincerely

Maurice Corcoran AM

Principal Community Visitor

South Australian Community Visitor Scheme

Ph: 1800 606 302 M: 0478 402059

E: maurice.corcoran@sa.gov.au

W: [www.sa.gov.au/CVS](http://www.sa.gov.au/CVS)

Level 3, 182 Victoria Square, Adelaide.

****

(Appendix 1)

Annual Reports of the Principal Community Visitor

[Principal Community Visitor Annual Report on Mental Health Services 2013-2014](http://www.sa.gov.au/__data/assets/pdf_file/0018/132309/Final-PCV-Mental-Health-Annual-Report-2013-2014.pdf)

[Principal Community Visitor Annual Report on Disability Accommodation 2013-14](http://www.sa.gov.au/__data/assets/pdf_file/0017/132308/Final-PCV-Disability-Annual-Report-2013-14.pdf)

*(Appendix 2)*

*Mental Health Act 2009*

Division 2—Community visitor scheme

50—Community visitors

 (1) There will be a position of Principal Community Visitor.

 (2) There will be such number of positions of Community Visitor as the Governor considers necessary for the proper performance of the community visitors' functions under this Division.

 (3) A person will be appointed to the position of Principal Community Visitor, or a position of Community Visitor, on conditions determined by the Governor and for a term, not exceeding 3 years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.

 (4) However, a person must not hold a position under this section for more than 2 consecutive terms.

 (5) The Governor may remove a person from the position of Principal Community Visitor, or a position of Community Visitor, on the presentation of an address from both Houses of Parliament seeking the person's removal.

 (6) The Governor may suspend a person from the position of Principal Community Visitor, or a position of Community Visitor, on the ground of incompetence or misbehaviour and, in that event—

 (a) a full statement of the reason for the suspension must be laid before both Houses of Parliament within 3 sitting days of the suspension; and

 (b) if, at the expiration of 1 month from the date on which the statement was laid before Parliament, an address from both Houses of Parliament seeking the person's removal has not been presented to the Governor, the person must be restored to the position.

 (7) The position of Principal Community Visitor, or a position of Community Visitor, becomes vacant if the person appointed to the position—

 (a) dies; or

 (b) resigns by written notice given to the Minister; or

 (c) completes a term of appointment and is not reappointed; or

 (d) is removed from the position by the Governor under [subsection (5)](#idc72ddb3e_7af6_4161_928f_859582f6daeb); or

 (e) becomes bankrupt or applies as a debtor to take the benefit of the laws relating to bankruptcy; or

 (f) is convicted of an indictable offence or sentenced to imprisonment for an offence; or

 (g) becomes a member of the Parliament of this State or any other State of the Commonwealth or of the Commonwealth or becomes a member of a Legislative Assembly of a Territory of the Commonwealth; or

 (h) becomes, in the opinion of the Governor, mentally or physically incapable of performing satisfactorily the functions of the position.

 (8) The Minister may appoint a person to act in the position of Principal Community Visitor—

 (a) during a vacancy in the position; or

 (b) when the Principal Community Visitor is absent or unable to perform the functions of the position; or

 (c) if the Principal Community Visitor is suspended from the position under [subsection (6)](#id57ddc9f4_d75a_4117_a299_cc90334dc21e).

51—Community visitors' functions

 (1) Community visitors have the following functions:

 (a) to conduct visits to and inspections of treatment centres as required or authorised under this Division;

 (b) to refer matters of concern relating to the organisation or delivery of mental health services in South Australia or the care, treatment or control of patients to the Minister, the Chief Psychiatrist or any other appropriate person or body;

 (c) to act as advocates for patients to promote the proper resolution of issues relating to the care, treatment or control of patients, including issues raised by a guardian, medical agent, relative, carer or friend of a patient or any person who is providing support to a patient under this Act;

 (d) any other functions assigned to community visitors by this Act or any other Act.

 (2) The Principal Community Visitor has the following additional functions:

 (a) to oversee and coordinate the performance of the community visitors' functions;

 (b) to advise and assist other community visitors in the performance of their functions, including the reference of matters of concern to the Minister, the Chief Psychiatrist or any other appropriate person or body;

 (c) to report to the Minister, as directed by the Minister, about the performance of the community visitors' functions;

 (d) any other functions assigned to the Principal Community Visitor by this Act or any other Act.

52—Visits to and inspection of treatment centres

 (1) Each treatment centre must be visited and inspected once a month by 2 or more community visitors.

 (2) 2 or more community visitors may visit a treatment centre at any time.

 (3) On a visit to a treatment centre under [subsection (1)](#id3f920c71_0fb2_4495_8394_cdfc8db99d29), the community visitors must—

 (a) so far as practicable, inspect all parts of the centre used for or relevant to the care, treatment or control of patients; and

 (b) so far as practicable, make any necessary inquiries about the care, treatment and control of each patient detained or being treated in the centre; and

 (c) take any other action required under the regulations.

 (4) After any visit to a treatment centre, the community visitors must (unless 1 of them is the Principal Community Visitor) report to the Principal Community Visitor about the visit in accordance with the requirements of the Principal Community Visitor.

 (5) A visit may be made with or without previous notice and at any time of the day or night, and be of such length, as the community visitors think appropriate.

 (6) A visit may be made at the request of a patient or a guardian, medical agent, relative, carer or friend of a patient or any person who is providing support to a patient under this Act.

 (7) A community visitor will, for the purposes of this Division—

 (a) have the authority to conduct inspections of the premises and operations of any hospital that is an incorporated hospital under the [*Health Care Act 2008*](http://www.legislation.sa.gov.au/index.aspx?action=legref&type=act&legtitle=Health%20Care%20Act%202008); and

 (b) be taken to be an inspector under Part 10 of the [*Health Care Act 2008*](http://www.legislation.sa.gov.au/index.aspx?action=legref&type=act&legtitle=Health%20Care%20Act%202008).

53—Requests to see community visitors

 (1) A patient or a guardian, medical agent, relative, carer or friend of a patient or any person who is providing support to a patient under this Act may make a request to see a community visitor.

 (2) If such a request is made to the director of a treatment centre in which the patient is being detained or treated, the director must advise a community visitor of the request within 2 days after receipt of the request.

54—Reports by Principal Community Visitor

 (1) The Principal Community Visitor must, on or before 30 September in every year, forward a report to the Minister on the work of the community visitors during the financial year ending on the preceding 30 June.

 (2) The Minister must, within 6 sitting days after receiving a report under [subsection (1)](#idcab97828_db88_4809_9fd6_d214da2e47ba), have copies of the report laid before both Houses of Parliament.

 (3) The Principal Community Visitor may, at any time, prepare a special report to the Minister on any matter arising out of the performance of the community visitors' functions.

 (4) Subject to [subsection (5)](#id6110dbfb_557a_41f4_9433_fc86db4adb88), the Minister must, within 2 weeks after receiving a special report, have copies of the report laid before both Houses of Parliament.

 (5) If the Minister cannot comply with [subsection (4)](#id26090c06_8a2f_48d4_83e2_bc5a711fdd63) because Parliament is not sitting, the Minister must deliver copies of the report to the President and the Speaker and the President and the Speaker must then—

 (a) immediately cause the report to be published; and

 (b) lay the report before their respective Houses at the earliest opportunity.

 (6) A report will, when published under [subsection (5)(a)](#idfc91f3bf_3cd4_4cd4_a88f_31f1ae15f1f8), be taken for the purposes of any other Act or law to be a report of the Parliament published under the authority of the Legislative Council and the House of Assembly.