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Ms Paula Pearsall
The Inspector General of Aged Care Taskforce
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Consultation on Exposure Draft of the Inspector-General of Aged Care Bill

COTA Australia welcomes the opportunity to respond to the exposure draft of the Inspector-General of Aged Care Bill. The Inspector-General of Aged Care is an essential part of the new governance structure and is critical to improving systemic transparency and accountability through independent reviews and reporting.

We are encouraged with the draft Bill's approach to monitoring and reporting on the progress of the implementation of the Royal Commission recommendations.

COTA Australia notes that further consultation and Government decisions are required to determine how the Inspector-General will work with other governance roles and offices including the Aged Care Complaints Commissioner and the Aboriginal and Torres Strait Islander Aged Care Commissioner. These relationships are critical to good overall system governance, and we look forward to receiving more information about this during 2023.

We also appreciate that there will be further opportunities to provide feedback on the functions of the Inspector-General that are outside the scope of this Bill.

COTA Australia supports the proposal that the Inspector-General be given authority to look at matters connected to Australian Government aged care policy including administration, regulation, funding, and services. It is good that the Inspector-General can determine their own annual program of review. Whether or not it is covered in the legislation it would be appropriate for some form of consultation on priority areas for review to occur.

Inspector-General oversight of the complaints management framework, as well as other elements of the Commission's functions, is important. We would expect to see that any review by the Inspector-General enables substantial improvements in complaints management across the aged care system through its power to receive and investigate complaints about regulator, system governor and assessors.

COTA Australia suggests that the new Inspector General should oversee the periodic review and reformulation of the standards, with experienced independent reviewers appointed for the purpose. The independent reviewers should also be part of consultation process involving the Australian Commission on Safety and Quality in

Health Care, the NDIS Quality and Safeguards Commission, the Aged Care Quality and Safety Authority, consumer representative organisations and people with lived experience of the aged care system. The Government would approve the new Standards through a Disallowable Instrument (subsidiary legislation).

Systemic oversight

COTA Australia supports the proposed approach to reviews, reports, and monitoring.

Oversight of the complaints management framework provides the opportunity for the Inspector-General to recommend improvements to complaints data. The robustness of this data is important in identifying systemic issues warranting in-depth reviews.

COTA Australia supports the comprehensive range of Inspector-General reports proposed. The 5- and 10-year report on an evaluation of the effectiveness of Royal Commission reform measures to be undertaken in 2026 and 2031 will be particularly important. We also support the capacity of the Inspector-General to undertake investigations and prepare reports outside of those required by legislation. From our engagement with older Australians, we know this capacity can serve to assure them that the pace of aged care reform continues and that it is effective.

Information gathering powers

COTA Australia supports the proposed information gathering powers including requiring people to provide information and documents or to answer questions and to be granted authority to access buildings of organisations who receive aged care funding.

Protections for the Inspector-General and others

COTA Australia supports the protections for people assisting the Inspector-General.

Criminal offences and civil penalties

COTA Australia supports the inclusion of penalties in the Bill.

Strengthening the Legislation

We note that there is no explicit reference to human rights in the exposure draft of the Inspector-General of Aged Care Bill. The legislation would be strengthened by mandating the Inspector-General to contribute to relevant international human rights procedures or mechanisms and requiring them to participate in any review of the human rights of older people in aged care as may be undertaken by the Australian Human Rights Commission

For example, it may be expected that the Inspector-General of Aged Care will meet with any delegations of the UN Subcommittee on Prevention of Torture when they undertake visits to places in which people are deprived of their liberty in Australia under the

Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) protocol.

We appreciate that the new Aged Care Act is expected to have a strong human rights foundation and may need to be passed before the detail of the Inspector-General legislation is finalised.

The Inspector-General legislation should ensure that the office is adequately funded to fully engage in human rights requirements.

We trust these comments are helpful in finalising this important legislation. If you have any queries on our submission, please do not hesitate to contact David Wright-Howie, Senior Policy Officer, by phone on (03) 9909 7911 or by e-mail at dwright-howie@cota.org.au to discuss in the first instance.

Yours Sincerely

A handwritten signature in black ink that reads "Patricia Sparrow". The signature is written in a cursive style and is positioned above the printed name and title.

Patricia Sparrow
Chief Executive Officer