

Former Federal Court judge to chair Ann Marie Smith independent inquiry

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The death of disability care recipient Ann Marie Smith is being treated by SA Police as a major crime. (Supplied: SA Police)

A former Federal Court judge will lead an independent inquiry into the adequacy of disability care provided to Adelaide woman Ann Marie Smith, who police believe spent up to a year confined to a chair.

Ms Smith, who had cerebral palsy, [died in the Royal Adelaide Hospital last month](#) of profound septic shock, multiple organ failure from severe pressure sores, and was also found to be suffering from malnutrition.

Police have [declared the 54-year-old's death a major crime](#) and said Ms Smith lived in "[disgusting and degrading conditions](#)" for at least a year before she died.

Key points:

- Ann Marie Smith died on April 6 after allegedly being left in a chair for a year
- Police announced an investigation into her death earlier this month
- An independent federal inquiry will examine the case

Her sole carer Rosa Maione has been sacked, while Ms Maione's employer Integrity Care has been fined for failing to report the death to the National Disability Insurance Scheme (NDIS).



Ann Marie Smith's home in Kensington Park. (Supplied: SA Police)

The NDIS Quality and Safeguards Commission has appointed former judge Alan Robertson to lead an inquiry into the case.

In a statement, NDIS Commissioner Graeme Head described the circumstances of Ms Smith's death as "appalling".

"It is imperative we get to the bottom of what happened," he said.

"Her death raises questions about the particular vulnerability of Ms Smith over a long period of time, including since July 1, 2018 when the NDIS Commission commenced regulation of NDIS supports and services in South Australia.

"It also raises wider questions around the approaches to safeguarding of people with disability and their rights as valued members and contributors to society."

The disability royal commission [previously indicated it would not immediately examine Ms Smith's death while a police inquiry was underway.](#)

State Human Services Minister Michelle Lensink said the State Government would cooperate with the federal review, including allowing public servants to give evidence.

"We're very glad to welcome the news that the Commonwealth Government is going to be investigating the provider through the appointment of Alan Robertson, who is a retired Federal Court judge, and we will be fully cooperating with that investigation," she said.

In a statement, NDIS Minister Stuart Robert said he was "first briefed" about the case on May 14, a day before it was made public.

He said the circumstances that led to Ms Smith's death "must never be allowed to happen again".

"It is important to note the review is to be conducted in a manner that avoids prejudice to any pending or current criminal or civil proceedings," he said.

"I welcome and fully support the actions of the NDIS Commissioner and the comprehensive terms of reference established for this inquiry."

Mr Robert said although he has been "kept informed of the proposed course of action" by Mr Head, the NDIS Act prevents him from giving direction to the commissioner in relation to particular individuals or providers.

Taskforce potentially 'conflicted'

The announcement comes after the SA Opposition called for an independent judicial review into gaps in the disability care system, claiming a State Government-appointed taskforce could be "deeply conflicted".

The taskforce was established to identify holes in the system and make recommendations on how to close them, but Labor leader Peter Malinauskas said it was not enough.

He said some of the members may be "deeply conflicted" because of previous or current disability roles, and should not be involved in investigating systemic failures.

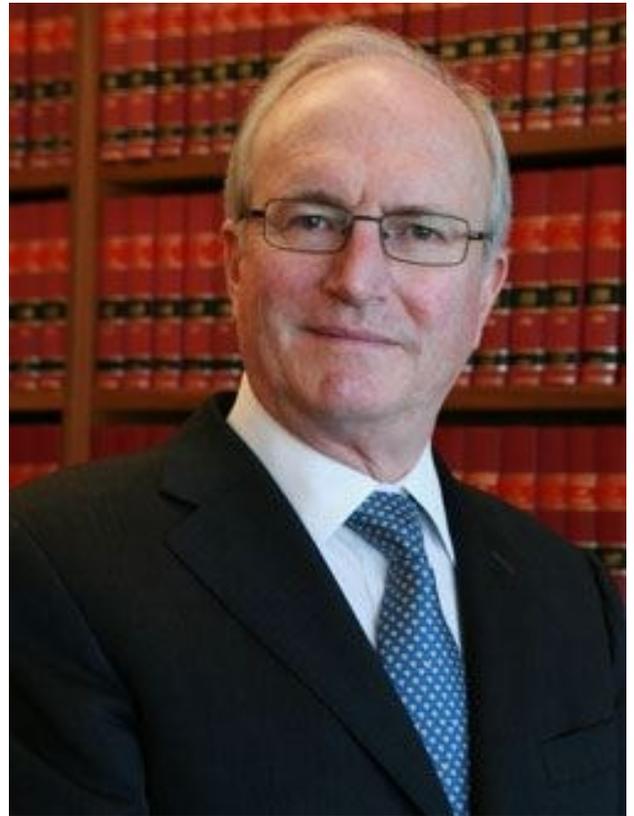
"Reviewers are reviewing themselves. It is an unsatisfactory situation," he said.

"They are the same people that oversaw this mess occurring in the first place."

The calls were supported by former principal community visitor Maurice Corcoran.

"We need to have someone completely independent having a look at this," he said.

"There are some great people on there [the taskforce] and they are great people with years and



Former Federal Court judge Alan Robertson will lead an inquiry into the case. (Australian Academy Of Law)

Ann Marie Smith case timeline

October 2017 — Integrity Care fails an SA Government audit.

February 2018 — Integrity Care rectifies deficits identified in the audit. The same year, Ann Marie Smith transitions from Disability SA to the NDIS.

April 5, 2020 — Ms Smith is taken to hospital by ambulance with septic shock, malnutrition and severe pressure sores.

April 6 — Ms Smith dies in hospital.

April 8 — An ambulance officer contacts the Office of the Public Advocate with concerns and is advised to report to their manager and police.

April 9 — The Ambulance Service confirms SA Health and police have been notified.

years of experience.

"But if we don't have the benefit of someone completely independent, someone who's dealt with these sort of things in other states or other jurisdictions involved in this process ... then I think whatever comes out of it, if it doesn't have that independent scrutiny, people are always going to question what the outcome is."

Ms Lensink said the State Government was expecting to receive its first recommendations from the taskforce by June 15.

She also sounded out a message to all those in care, and to their loved ones, saying many paid carers were doing exemplary jobs.

"There are a lot of fantastic people working in the system and I've received correspondence from people who are quite distressed because they are responsible and conscientious and absolutely horrified about this situation," she told ABC Radio Adelaide.

"But we have identified that there are gaps in the system and those are things that we want to make sure that we are rectifying."



Ms Lensink said the taskforce will look into the screening process as well. (ABC: Angus Llewellyn)

Audit to probe screening unit

SA Premier Steven Marshall said the state's disability screening unit would also be audited by the taskforce.

April 20 — The Office of the Public Advocate reports Ann Marie Smith's death to the NDIS Quality and Safeguarding Commission.

April 15 — Integrity Care applies to the Department of Human Services for a screening check on Rosa Maione for the first time.

April 24 — Ms Maione's screening check is approved.

May 15 — Police announce they have launched a manslaughter investigation into Ms Smith's death.

"Obviously the Federal jurisdiction will have to audit their people but again, this is one of the reasons the taskforce has been set up, it's got people from right across the sector," he said.

"We've got to make sure that we're not going backwards in terms of some of the checks and balances that might have existed in one system that haven't transferred on to the other."

The state's Department of Human Services told a parliamentary committee yesterday that Rosa Maione was granted clearance to work in the disability sector after Ms Smith's death.

During the committee meeting, the committee was told she had been "banned" by the State Government-run Domiciliary Care program in 2013, [after money allegedly went missing from her client's homes](#).

Ms Maione's lawyer Stephen Ey rejected suggestions Ms Maione had been "banned".

He said his client denied any wrongdoing over the 2013 allegations adding that no charges were brought.

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