

Submission on Aligning Regulation across Aged Care, Disability Support, and Veterans' Care

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Overview

This submission provides input on the Australian Government's efforts to align regulation across the aged care, disability support, and veterans' care sectors. Volunteers contribute extensively across Australia's care and support sector. Amid the significant challenges facing the volunteering ecosystem, efforts to align regulation to improve the experiences of workers, providers, consumers, and participants must consider ways to promote and support volunteer engagement, as well as the potential effects of regulatory change on existing volunteers and volunteer involving organisations. Volunteering Australia highlights the following points on the implications of regulatory alignment for volunteer involvement in the care and support sector:

- A key aim of the Government's work to align regulation is to ensure consistency across sectors.¹ Efforts to align regulation for care and support workers should note the inconsistency in the inclusion of volunteers in workforce definitions across sectors and promote measures to improve consistency.
- Alignment of regulation should consider the administrative burden on volunteer involving organisations and aim to simplify administrative requirements.
- Whether volunteers are to be included under particular regulatory requirements should be considered following detailed analysis of the distinct characteristics of volunteer engagement across the care and support sector.
- Efforts to pursue greater regulatory alignment should involve ongoing consultation with relevant stakeholders in the volunteering ecosystem, including the peak volunteering bodies and providers which involve volunteers. The limited timeframe of this consultation, occurring as it has at a time when organisations are under significant pressure implementing the COVID-19 vaccine mandate, has made any meaningful on-the-ground engagement impossible.

Introduction

Background and context

The volunteering ecosystem is facing immense challenges, particularly as the nation transitions to the next phase of its response to the COVID-19 pandemic. The proportion of Australians doing voluntary work fell from 36 per cent in late 2019 to 24.2 per cent in April 2021, amounting to an estimated loss of 2.3 million from Australia's volunteer force.² Troublingly, almost half of those who stopped volunteering during COVID-19 had not resumed by April 2021, despite the easing of lockdown and physical distancing restrictions in many jurisdictions at that time.³

¹ <https://www.health.gov.au/sites/default/files/documents/2021/10/background-paper-aligning-regulation-across-australia-s-care-and-support-sectors.pdf>, 2

² https://csmr.cass.anu.edu.au/sites/default/files/docs/2021/5/Volunteering_during_the_COVID-19_pandemic_-_April_2021.pdf

³ *ibid*

The decline in volunteering has profound implications for the care and support sectors. According to the State of the Disability Sector Report 2021 from National Disability Services, 56 per cent of providers indicated that they had difficulty recruiting volunteers.⁴ A decline in volunteer engagement is similarly noted in the 2020 Aged Care Workforce Census, with a majority of providers across the sector reporting decreases in the number of volunteers.⁵ However, volunteers are not included consistently in current strategic initiatives for the care and support sectors, such as the NDIS National Workforce Plan: 2021-2025. Consequently, government planning for the sector does not currently examine challenges for volunteering or plan measures to overcome them. With this context in mind, changes to legislation including the alignment of regulation must consider measures to promote and support volunteer involvement, including the reduction of administrative burden and the design of appropriate supports for volunteer involving organisations to engage volunteers.

In response to these challenges, work has recently commenced on a sector-led National Strategy for Volunteering, funded by the Department of Social Services and facilitated by Volunteering Australia. The National Strategy for Volunteering will provide strategic direction for the sector and enable volunteering across Australia to be effective, inclusive, and sustainable. The regulatory burden on volunteer involving organisations will be considered as part of the National Strategy project.

About the Australian Government's consultation on aligning regulation across aged care, disability support, and veterans' care

In the 2021–22 Budget, the Australian Government committed to align regulation of Commonwealth-funded care and supports to improve protections and ensure consistent quality and safety for participants and consumers. This process aims to minimise duplication in regulatory requirements across care and support settings, to improve consistency of care for consumers and participants, and to reduce barriers to providers with the capabilities to operate across sectors.

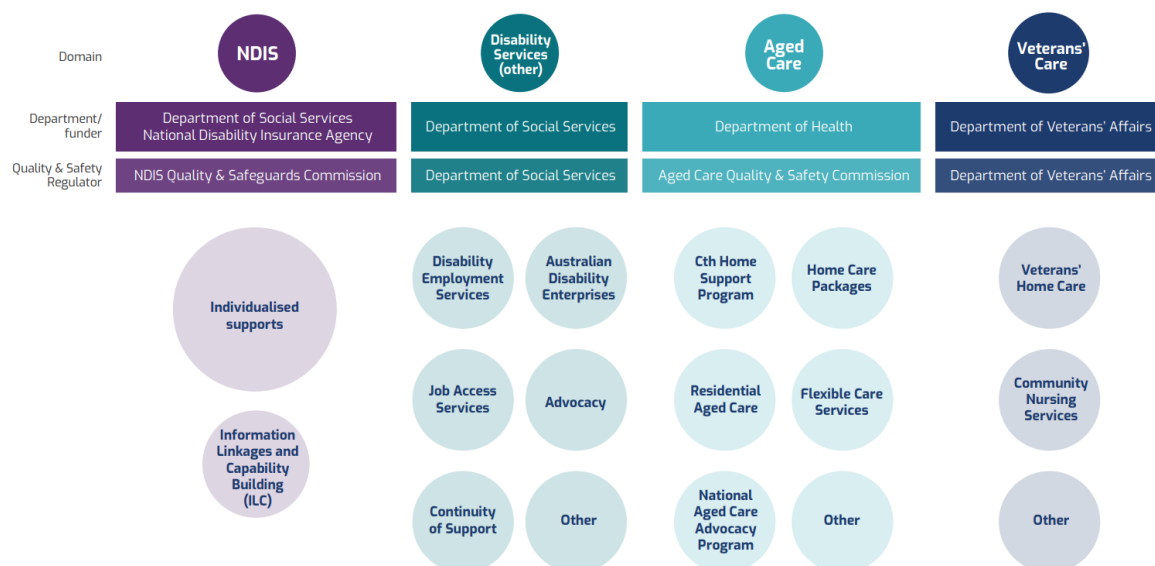
The process also aims to identify and promote best practice regulation, rather than to apply a one-size-fits-all approach. This means that while some sets of regulation are duplicative and should be standardised or streamlined, others can and should account for differences across sectors.

The care and support sector includes the following national programs: the NDIS (Department of Social Services and the National Disability Insurance Agency), Disability Services (Department of Social Services), Aged Care (Department of Health), and Veterans' Care (Department of Veterans' Affairs). Further detail is provided in the following figure from the Consultation Paper.

⁴ https://www.nds.org.au/images/State_of_the_Disability_Sector_Reports/SoTDS_2021_single.pdf, 43

⁵ <https://www.volunteeringaustralia.org/wp-content/uploads/AGED-CARE-CENSUS-2020-factsheet-Final.pdf>

Figure 1: Overview of Australia's care and support sectors



About this submission

This submission identifies the ways that volunteer engagement in the aged care, disability support, and veterans' care sectors is affected by the current regulatory environment, and how it may be affected by alignments across sectors. It aims to identify opportunities to reduce red tape and encourage the safe and effective engagement of volunteers, and to highlight the risks of regulatory alignment for volunteer involvement in the care and support sector. It concludes with recommendations on short- and long-term alignment efforts, and on the ongoing process of consultation with the sector.

This submission responds primarily to the following questions included in the Consultation Paper:⁶

1. What potential benefits and risks can you see in pursuing greater alignment of regulation across the care and support sector?
3. What differences need to be catered for in cross-sector regulation?
6. What are some possible solutions that would address the challenges you identified with cross-sector regulation of care and supports?

This submission was drafted by Volunteering Australia in collaboration with the State and Territory peak volunteering bodies.

⁶ https://consultations.health.gov.au/best-practice-regulation/aligning-regulation-across-care-and-support-sector/user_uploads/consultation-paper-on-regulatory-alignment----final-15-november-2021-1.pdf

Volunteers in the care and support sectors

Volunteers play a significant role in the aged care, disability support, and veterans' care sectors. According to the Australian Charities and Not-for-profits Commission, 59,254 people volunteered in charities and not-for-profits which identified people with disability as their main beneficiaries in 2019.⁷ A further 43,521 volunteered in organisations which identified veterans and/or their families as their main beneficiaries, and 30,883 people volunteered across Commonwealth aged care services according to the 2020 Aged Care Workforce Census.⁸ These figures indicate the extent to which volunteers contribute their time across sectors, and demonstrate the importance of considering volunteer involvement in the alignment of regulation. Efforts to align regulation must acknowledge and aim to support volunteers and the volunteering ecosystem.

While these figures illustrate the scale of volunteer involvement, the collection of data on volunteers in the care and support sectors is limited, and inconsistent across sectors. For example, data from the Department of Health on the extent of worker involvement between aged care, disability support, and veterans' care only includes paid staff.⁹ Efforts to ensure that volunteers are consistently included in data collection efforts in the sector will be crucial to an evidence-based approach to the alignment of regulation.

The inclusion of volunteers in regulatory alignment

Despite their extensive involvement in aged care, disability support, and veterans' care, whether and how volunteers are included under relevant regulation varies across the three sectors. In disability support, volunteers are explicitly included among those employed or otherwise engaged by providers, including in registered and unregistered NDIS providers and in other Commonwealth programmes in the disability services space.¹⁰ The aged care sector similarly includes individuals engaged on a voluntary basis in providers of residential, home, and flexible care, as workers.¹¹ In veterans' care, however, volunteers are not specified as part of the workforce, or noted to be among those engaged by care providers in the sector.¹²

While differences between models of care delivered in the aged care, disability support, and veterans' care sectors may necessitate sector-specific workforce definitions, the lack of consistency with regards to volunteer inclusion may increase administrative burden if regulation is aligned to

⁷ <https://data.gov.au/dataset/ds-dga-34b35c52-8af0-4cc1-aa0b-2278f6416d09/distribution/dist-dga-1da3681e-6149-45db-8458-9173947bd5bc/details?q=acnc>

⁸ <https://www.health.gov.au/sites/default/files/documents/2021/10/2020-aged-care-workforce-census.pdf>

⁹ <https://www.health.gov.au/sites/default/files/documents/2021/10/background-paper-aligning-regulation-across-australia-s-care-and-support-sectors.pdf>, 5

¹⁰ https://consultations.health.gov.au/++preview++/aged-care-reform-compliance-division/care-and-support-sector-code-of-conduct-consultati/supporting_documents/Care%20and%20Support%20Sector%20Code%20of%20Conduct%20Consultation%20Paper.pdf, 10-11

¹¹ *ibid*

¹² *ibid*

cover workers across these sectors. For example, many volunteers provide social and community connection services to older people, and these volunteers may work across the aged care and veterans' care sectors in their volunteering. As workforce definitions are used to distinguish who is covered under relevant regulatory frameworks, whether volunteers are included under aligned regulation, such as the proposed Care and Support Sector Code of Conduct, would vary by sector.¹³ In order to meaningfully simplify service provision across sectors, efforts to align regulation must be clear regarding the inclusion of volunteers.

Volunteering Australia suggests that volunteers should be considered in workforce definitions as an essential, but distinct, component of the care and support workforce. Despite their contributions to the sector, volunteers are different from paid staff in their role types, obligations, and work expectations. Efforts to align regulation for workers in the sector should note the inconsistency in the inclusion of volunteers in workforce definitions across sectors. However, whether volunteers are to be included under or exempt from particular regulatory requirements requires further analysis of the impact that increased regulation would have on volunteer involvement. As such, these changes should be considered following detailed analysis and engagement with the volunteering ecosystem.

The risks of regulatory alignment

The further alignment of screening procedures across the aged care, disability support, and veterans' care sectors has the potential to improve efficiency and reduce administrative requirements. Such efforts would be particularly beneficial for volunteer involving organisations. However, if the effects of regulatory changes on volunteering are not adequately considered, they may increase administrative burden and inadvertently discourage volunteer engagement. This is evident based on prior experiences of regulatory reform in the care and support sector.

Volunteers and the alignment of worker screening

Despite other benefits, the introduction of the national NDIS Worker Screening requirements caused complications for volunteers.

Although NDIS Worker Screening is a national requirement, the process is implemented by state and territory governments. Volunteering Australia has heard that the handling of the process in some states and territories has created issues for volunteer engagement in disability service providers. In some jurisdictions, for example, the screening of volunteers in risk assessed roles with NDIS providers is a manual two-step process. Volunteers must submit an application for a volunteer fee waiver, and then apply separately for the NDIS screening check once the waiver is processed. Some organisations have reported that this is often a disincentive for new volunteers to continue with the process. They have also expressed frustration with this system as it does not allow organisations to manage the process or assist their volunteers, other than to direct them to apply.

It is also important to consider the nature and scale of volunteer involvement in each of the relevant sectors when enacting regulatory changes. Insufficient understanding of the workforce and the role

¹³ *ibid*

of volunteers in the disability sector caused significant issues with NDIS screening of volunteers in Victoria. The process required applications for the volunteer fee waiver to be sent to a central help desk to be approved manually. This system did not account for the large number of volunteers who need the check, and there was no process to expedite clearances for volunteers in priority roles. Both decisions indicated a lack of understanding of the extent of volunteer involvement in the sector. If a national care and support worker screening check is progressed, a clear indication of the number of volunteers involved in the aged care, disability support, and veterans' care sectors, and the roles they occupy, should inform the design of the screening processes for volunteers. Attention should be paid to the number of expected volunteer applicants, the waiver or reimbursement process for volunteers, and the accessibility of the process, particularly when an online application is required.

The alignment of regulatory requirements such as worker screening checks can streamline administrative processes for providers and help to ensure consistent quality and safety for participants and consumers across sectors. However, it is essential that the volunteering ecosystem is considered during both the planning and implementation stages. In some instances, the dynamics of volunteer engagement are distinct from those of paid staff and should be considered as separate in relevant regulatory frameworks. Efforts to align regulation should consider how both the existing and proposed sets of regulation affect volunteers and volunteer involving organisations, and promote policy which supports accessible, safe, and effective volunteering in the care and support sector.

Administrative burden for volunteer involving organisations

As well as creating complications for volunteers, regulatory changes risk adding administrative requirements for volunteer involving organisations. Some of the regulatory areas proposed for potential alignment in the future, such as monitoring, assessment, reporting, compliance, and education, could contribute to administrative burden and inadvertently discourage volunteer engagement if applied to all volunteer roles.¹⁴ This could have profound implications for:

- Volunteers and their wellbeing, due to loss of roles and exposure to new requirements without adequate support
- Clients and beneficiaries of care and support services, who consistently report a different relationship with volunteers (for example, the benefits of a more personal connection) than if the same services were delivered by paid staff
- Service providers and volunteer involving organisations, and,
- The Commonwealth government, particularly regarding the financial commitment required to replace the loss of volunteers.

These implications for volunteering in the care and support sector must be given full and specific consideration as efforts to align regulation progress. The following example provided by

¹⁴ https://consultations.health.gov.au/best-practice-regulation/aligning-regulation-across-care-and-support-sector/user_uploads/consultation-paper-on-regulatory-alignment----final-15-november-2021-1.pdf, 16

Volunteering WA highlights the potential impact of pursuing regulatory change without sufficient consideration of the volunteering ecosystem.

The Transport (Road Passenger Services) Act 2018 (WA) was introduced with an objective to promote the provision of safe, flexible passenger transport, partially in response to the introduction of ride share services in the market.

The legislation introduced significant changes to the licensing of volunteer transport drivers in WA including increasing administrative and financial burdens on volunteers and volunteer organisations and the risk of significant penalties.

Passenger transport is a commonly held volunteer role in WA including:

- patient transport for hospitals, clinics, and nursing homes
- seniors transport to shops, doctor surgeries, and appointments as community services delivered by many Local Government Authorities across the State
- transport for people with disability provided by the not-for-profit sector, and,
- transport to increase access to and participation in community events, including for culturally and linguistically diverse communities.

All the above roles involve volunteers giving their time freely to assist in the transport of disadvantaged members of our community.

The legislative changes caused considerable distress to impacted volunteers and threatened closure of a number of community transport services due to financial and administrative unsustainability.

Advocacy led to changes being introduced in 2021 to exclude volunteers from the scope of the legislation.

Recommendations

Based on the information presented on the effects of regulatory change on volunteer involvement in the care and support sector, Volunteering Australia makes the following recommendations:

1. Clarify the inclusion of volunteers in the alignment of regulation across the aged care, disability support, and veterans' care sectors.
2. Consider how the development and implementation of regulatory alignments would affect volunteer engagement and consider whether volunteers should be either included in or exempt from particular regulatory requirements. This should follow detailed analysis and engagement with the volunteering ecosystem.
3. Engage in ongoing consultation with relevant bodies, including the state and territory peak volunteering bodies and major providers which involve volunteers, on how future regulatory alignments would affect volunteer engagement.

Authorisation

This submission has been authorised by the Chief Executive Officer of Volunteering Australia.



Mr Mark Pearce
Chief Executive Officer

Endorsements

This submission has been endorsed by the seven State and Territory volunteering peak bodies.



About Volunteering Australia

Volunteering Australia is the national peak body for volunteering, working to advance volunteering in the Australian community. The seven State and Territory volunteering peak bodies work to advance and promote volunteering in their respective jurisdictions and are Foundation Members of Volunteering Australia.

Volunteering Australia's vision is to promote strong, connected communities through volunteering. Our mission is to lead, strengthen, promote, and celebrate volunteering in Australia.

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