

# *A new Aged Care Act*

Consultation paper No. 2 submission

## **Joint submission**

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## **Introduction**

The Commonwealth Government has released an exposure draft of the Bill for the new Aged Care Act for public consultation. The first public consultation was undertaken in 2023 and previous feedback has informed the development of this new Bill. The exposure draft includes the parts of the Bill that incorporate the most significant changes proposed to the aged care system.

Volunteering SA&NT and Volunteering Tasmania are pleased to take the opportunity to respond to the exposure draft of the new Aged Care Act and Consultation Paper No. 2. Volunteering SA&NT has previously responded to Consultation Paper No. 1 and has contributed to and endorsed several submissions by Volunteering Australia as part of the ongoing Aged Care Reform consultation process.

Volunteering SA&NT and Volunteering Tasmania are the two state and territory volunteering peaks that receive Commonwealth Home Support Programme (CHSP) funding for Sector Support and Development.

## **About Volunteering SA&NT**

Volunteering SA&NT (VSA&NT) is a not-for-profit organisation, the peak body for volunteering and a volunteer support service, leading the sector in South Australia and the Northern Territory. Since 1982 we have worked with individuals, organisations, businesses, and communities to support, grow, and celebrate volunteering.

Through key partnerships, we provide a range of services, support and resources for all volunteer involving organisations and almost one million volunteers, which contributes to positive volunteering experiences and the strengthening of communities.

VSA&NT's Sector Support and Development initiatives are aimed at assisting CHSP providers and their volunteers in various areas. These include volunteer recruitment, advertising, screening, and selection processes, as well as learning and development opportunities for volunteers. Additionally, they focus on volunteer recognition, risk management, work health and safety matters, and continuous improvement.

## **About Volunteering Tasmania**

Volunteering Tasmania (VT) is the peak body for volunteering in Tasmania. We work to see an inclusive, thriving, and celebrated culture of community participation across the state by strengthening and enhancing volunteering through leadership, education, and connection. We work to ensure community-based volunteering is sustained, valued and integral to community resilience and wellbeing.

VT provides best-practice volunteer management sector support and development initiatives to Commonwealth Home Support Program (CHSP) funded organisations. Support to providers includes provision of information, resources, training, forums, one-on-one support, connection with other

volunteer managers, mentoring, and advocating on behalf of the sector informed by the needs and experiences of providers.

## Overview

The new Aged Care Act proposes to deliver a more transparent, rights and consumer-centered approach to aged care in Australia, with stronger regulatory powers to compel providers to ensure they are providing quality services and care to older people.

While we are cognisant that the Act is concerned with the rights of aged care system consumers and the obligations of aged care service providers to provide safe, culturally appropriate, and dignified services – rather than being concerned with the rights and obligations of paid staff and volunteers – we would like to see greater acknowledgement of the distinct role of volunteers in the aged care system and the obligations of aged care providers in supporting their volunteers.

VSA&NT and VT make the following recommendations:

1. Maintain specific acknowledgement of the importance of volunteers in Commonwealth aged care services.
2. Clearly define the distinct role that volunteers undertake in the Commonwealth Aged Care System within subordinate law and regulation and outline the provisions within the Act that relate directly to aged care volunteers.
3. Allow for a balanced and risk-proportionate approach to screening and mandatory training obligations for volunteers who are interested in or already volunteering in aged care.
4. Ensure the complaints process and whistleblower protections are maintained in the Act, note that they also apply to volunteers working in aged care, and promote these protections regularly to aged care providers and to volunteers during onboarding and training.
5. Commission an independent review of the operation of the Act three years from commencement underpinned by consultation with aged care providers, aged care volunteers, and national, state and territory volunteering peak bodies.
6. Ensure the continuing reform process includes regular consultation with aged care providers, aged care volunteers, and national, state and territory volunteering peak bodies.
7. With the new Act proposing reforms that are a major shift from the way the system currently operates, ensure that accessible, plain English information setting out obligations and rights is regularly provided to aged care providers, paid staff, and volunteers.

VSA&NT and VT appreciates the Department of Health and Aged Care’s increasing acknowledgement of the important role of volunteering in aged care and would like to continue to work together to extend and enhance this momentum throughout the reform process and beyond.

## **About the new Aged Care Act**

The new Aged Care Act (the Act) proposes legislation that is focussed on the health, wellbeing, safety, and agency of older people and aims to put the needs of service recipients first. This legislation is being designed to build on the Royal Commission’s vision of a new, consumer-centric and rights-based aged care system that delivers better outcomes for older people. The Government will introduce the proposed laws in 2024.

Alongside the Act, subordinate legislation known as the “Rules” will also be drafted, providing greater detail on how the aged care system will operate.

The new Aged Care Act presents a major shift from the way the system currently operates and contains a range of provisions that do not impact volunteers directly. However, there are some provisions within the Act that have the potential to significantly impact aged care volunteers.

## **Volunteers in aged care**

Volunteers play a vital and diverse role in aged care. According to the 2016 National Aged Care Workforce Census and Survey<sup>1</sup>, volunteers were extensively involved, with 83 percent of residential facilities and 51 percent of home care and home support services utilising their services.

The specific tasks undertaken by volunteers vary between residential and home-based aged care settings. For instance, in home aged care, volunteers are more likely to assist with activities such as shopping and appointment scheduling, as well as meal preparation, compared to the work of volunteers in residential facilities. Community aged care providers are also more inclined to engage volunteers for tasks related to transportation assistance compared to residential care providers.

It is important to note that the COVID-19 pandemic had a significant impact on volunteer engagement in aged care. The more recent 2020 Aged Care Census<sup>2</sup> revealed that volunteers were disproportionately affected by the pandemic compared to the paid workforce. Volunteer activity saw a substantial decrease and has not yet returned to pre-pandemic levels. In response to this decline, the volunteering peaks and volunteering organisations in each State and Territory collaborated with

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<sup>1</sup> Australian Government (2017). 2016 Aged Care Workforce Census Report. Department of Health. Viewed 30 January 2024, <https://www.gen-agedcaredata.gov.au/getmedia/f43cf5d8-d628-4355-9ac8-64a020b5b620/The-Aged-Care-Workforce-2016.pdf>

<sup>2</sup> Australian Government (2022). 2020 Aged Care Workforce Census Report. Department of Health. Viewed 30 January 2024, <https://www.health.gov.au/sites/default/files/documents/2021/10/2020-aged-care-workforce-census.pdf>

the Australian Department of Health and Aged Care in early 2022 to reintegrate volunteers into residential aged care facilities.<sup>3</sup>

## **Specific comments on the Act**

### **Recognition of volunteers**

VSA&NT and VT welcomes recognition in the Act of the important role that volunteers undertake in the aged care sector (S 22 (c)). However, it's important to acknowledge that the roles and duties of volunteers are distinct from that of paid staff.

The work of volunteers is different from paid workers in their role types, obligations, and work expectations. Ensuring that the roles undertaken by paid staff and volunteers is clearly articulated in the Act and subordinate law and regulation will safeguard volunteers from exploitation and the expectation that they perform duties that are the responsibility of paid workers. This acknowledgement will also provide clear guidance on the responsibilities and obligations of volunteers and avoid unintended consequences to volunteering in aged care.

### **Nationally consistent screening process**

While VSA&NT and VT welcomes the commitment to harmonise screening processes across the country, we support Volunteering Australia's advocacy for a risk-proportionate approach to volunteers who are interested in or already volunteering in aged care.<sup>4</sup>

VSA&NT and VT remains concerned that paid and volunteer workers are undifferentiated in the Act and advocate for their acknowledgement as an essential, but distinct, part of the aged care workforce.

This acknowledgement, a risk-proportionate approach to screening and mandatory training requirements and a clear definition of the parts of the Act that apply to volunteers in subordinate law and regulation, will avoid the scenario where volunteers seeking or working in low-risk roles are dissuaded from giving their time to the sector due to onerous screening and training processes.

### **Complaints and whistleblower protections**

The proposed complaints process and Commissioner and whistleblower protections will be important mechanisms in which issues within the aged care sector can be highlighted and addressed. For volunteers to be aware of these mechanisms and protections, VSA&NT and VT advocates for the

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<sup>3</sup> Volunteering SA&NT (2023). A New Aged Care Act Consultation Paper no. 1 Submission. August 2023.

<sup>4</sup> West, C (2023). Submission on a new model for regulating Aged Care: Consultation no. 2. *Volunteering Australia*. June 2023. Accessed 30 January 2024,

<https://www.volunteeringaustralia.org/download/199/2023/44083/june-2023-submission-on-a-new-model-for-regulating-aged-care-consultation-paper-no-2.pdf>

Rules to contain directions to providers to compel them to provide regular communications to volunteers on internal and external complaints mechanisms. This information could be provided during onboarding, supervision and annual reviews and be part of regular communications to paid staff and volunteers.

### **Independent review of the Act**

VSA&NT and VT concurs with position of Volunteering Australia and COTA Australia and the Older Persons Advocacy Network (OPAN) in calling for Government to commission an independent review of the operation of the Act three years from commencement that includes consultation with aged care volunteers, aged care providers and national, state and territory peak bodies. With the new Act proposing a major shift away from the way the system currently operates, any issues or unintended consequences impacting service recipients, families, providers, paid workers, or volunteers, needs to be identified early.<sup>5</sup>

In addition to an independent review of the Act, VSA&NT and VT also advocates for regular consultation mechanisms on the scope and effectiveness of reforms with relevant volunteering stakeholders, including volunteers, aged care providers, national, state and territory volunteering peak bodies and volunteering involving providers.

### **Promotion and awareness raising**

With the new Act proposing reforms that are a major shift from the way the system currently operates, government must ensure that accessible, plain English information setting out obligations and rights should be regularly provided to paid staff and volunteers. This information should be tailored, accessible, and culturally appropriate to paid staff and volunteers. The proposed promotional campaign could regularly highlight:

- The distinct role and value of workers and volunteers in the aged care sector.
- The roles of aged care providers involved in recruiting, training, and managing volunteers involved in aged care.
- The principles, rights, obligations, and rules related to providing aged care services on behalf of the Commonwealth.

This campaign has the potential to raise awareness and build understanding of the requirements and obligations of the new Act and the role of aged care providers in orientating, preparing, and managing aged care volunteers.

### **Resourcing Volunteer Managers and Coordinators**

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<sup>5</sup> OPAN (2024). Aged Care Act Exposure Draft: Key Issues Paper. January 2024. Accessed 30 January 2024, [https://media.opan.org.au/uploads/2024/01/Aged-Care-Act-Exposure-Draft-Key-Issues-Paper\\_Jan-2024\\_FINAL.pdf](https://media.opan.org.au/uploads/2024/01/Aged-Care-Act-Exposure-Draft-Key-Issues-Paper_Jan-2024_FINAL.pdf)

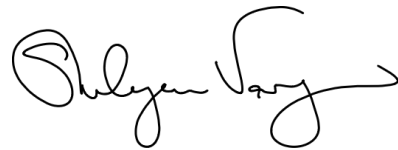
Act reform requires services to adjust and maintain processes and procedures to meet compliance standards. The implications of this need to be considered on those managing the volunteer workforce within the aged care setting. Volunteer Managers and Coordinators need to be appropriately resourced, trained and supported to embed the best practice volunteer management infrastructure needed to meet the requirements as laid out in the Act and regulatory model. This is critical in ensuring the changes do not have a negative impact on the motivations and engagement of volunteers wishing to contribute through the aged care sector.

## Authorisation

This submission has been authorised by the Chief Executive Officers of Volunteering SA&NT and Tasmania.



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