

The Aged Care Workforce Remote Accord

Submission on the New Aged Care Act

Exposure Draft

The Aged Care Workforce Remote Accord makes this submission in response to the New Aged Care Act Exposure Draft – Consultation Paper 2. This submission seeks to raise awareness of the impacts the New Aged Care Act will have on services and communities in remote areas of Australia, particularly given ongoing and entrenched workforce shortages.

The Aged Care Workforce Remote Accord

The Aged Care Workforce Remote Accord (the Remote Accord) is a group of industry experts and service providers delivering aged care services in regional and remote areas of Australia.

The Remote Accord was formed based on the belief that every community—including those in remote and very remote areas of Australia—has an equal right to accessible, high quality aged care services. The Remote Accord saw its genesis in the ‘*A Matter of Care: Australia’s Aged Care Workforce Strategy*’ report; Strategic Action 11 recommended that the Government and industry support the establishment of a Remote Accord.

Key Recommendations:

- Remote Australia has specific and unique challenges when it comes to providing aged care services, and these challenges must be taken into account as new legislation is implemented.
- The Remote Accord calls for specific and tailored support for remote service providers as they navigate a shifting regulatory landscape; this support will help to ensure older people living in remote Australia continue to receive appropriate care as they age in place.
- The Remote Accord advises caution with regard to the implementation of punitive regulatory measures where they may serve to disincentivise entry into the aged care workforce in remote communities, or discourage those already in the workforce.

The Remote Accord supports the introduction of the New Aged Care Act and is eager to work alongside legislators as the Act is further developed and implementation processes take place.

Acknowledging the critical role of contextual factors in the potential for the intent of the Act to be fulfilled, it is the Accord's belief that it is imperative that chronic workforce challenges facing the sector - particularly in remote Australia - are taken into account as change is implemented. The unique difficulties faced by remote service providers and their workforce require special attention to ensure equitable and effective service delivery is achieved.

As the details of the Act are fleshed out and implementation progresses, the Remote Accord underscores the importance of providing comprehensive support for remote services. This includes ensuring workforce confidence, sustaining services, and addressing ongoing challenges concerning the appropriateness of the regulatory environment in remote Australia. Furthermore, we advocate for specific measures to support remote services during transition stages, recognising the significance of a smooth and well-supported transition for the overall positive impact envisioned for the New Aged Care Act.

Equity for remote communities and services

The foundation of rights-based legislation lies in the pursuit of independence, autonomy, empowerment, and freedom of choice for every individual. The Remote Accord is supportive of this rights-based approach in the New Act, particularly as it relates to cultural safety and continuity of service.

In the context of remote services, it is crucial to acknowledge that users often have limited choices, sometimes restricted to a single service provider within their community. Additionally, remote communities foster a unique dynamic where service providers may be individuals known to the service users, emphasising the need for flexible, culturally sensitive, and community-centric approaches to care.

In addition, a flexible system is vital for people who are at risk of becoming marginalised or displaced if their support needs cannot be met by whichever service is available to them in their community. For instance, the Remote Accord is aware of instances where First Nations people on NDIS packages receive care from their local aged care facility because it is the only service delivering safe residential care within their community. Should people under these circumstances be assessed as ineligible for aged care services under the New Act, there is concern about where they will go to access care. Processes need to be outlined for services and communities navigating shifting eligibility criteria to ensure at risk individuals are not left behind.

There is also concern that in remote communities where many potential decision makers are themselves survivors of the Stolen Generation and intergenerational trauma, having the

Government decide who can and can't make decisions may risk re-institutionalising and retraumatising communities. The Remote Accord is eager to flag this policy risk and encourage an in depth consultation with First Nations people and communities.

Ensuring equitable access for people in remote Australia requires a collaborative regulatory environment that recognises the distinctive challenges of these areas. The availability and accessibility of services in these regions are paramount, making it imperative to create a regulatory landscape that supports a robust and responsive workforce. The strength of the workforce is inextricably linked to the success of the regulatory framework, emphasising the importance of a supportive and easily navigable regulatory landscape to foster a competent, resilient and effective remote care workforce.

Support required for remote services navigating change

The aged care sector has been through a prolonged period of intensive change and upheaval since the beginning of 2020, when Covid-19 first impacted the sector. This, in addition to pre-existing workforce shortages and an ongoing period of regulatory reform following the Aged Care Royal Commission, has placed ongoing pressure on the sector which disproportionately affects smaller, less-resourced remote services.

The Remote Accord is concerned that the New Act and accompanying new Standards, regardless of their merits, will contribute to an administrative burden that threatens the sustainability of aged care services in remote regions. Remote service providers face the same administrative demands as their metropolitan counterparts, despite having fewer resources at their disposal. Without addressing these disparities, the sustainability of aged care in remote areas is at risk, potentially leading to reduced access and compromised quality of care for older people in these communities. This in turn presents a challenge to the equity of access and rights-based care that the Act seeks to ensure.

In thin markets, such as those prevalent in remote and very remote areas, the regulatory focus needs to shift from competition to organisational development, capability building, and service improvement. While competition might drive quality in metropolitan settings, remote areas require a different approach. Instead of punitive measures for services who may be struggling, there should be a proactive effort to provide support and guidance to service providers who are striving to meet the Standards in a unique service context. This support-oriented regulatory approach acknowledges the unique challenges faced by remote service providers and works towards building their capacity to provide culturally appropriate and sustainable aged care.

To address this issue, the development of a comprehensive Guide tailored specifically for remote service providers and regulators is essential. This Guide should outline key tasks and strategies that remote service providers can adopt to meet the new Aged Care Standards effectively within their service context. The Guide should provide concrete examples of the kinds of evidence these services can use to demonstrate their compliance. The Guide could also outline a more nuanced approach to the audit process; for example, interviews with service users who are Indigenous needs to occur with the support of trusted people, and recommending assessors spend time working in remote contexts to better understand them before being assigned to an assessment team.

Based on information provided in public consultations to date, we understand that the Aged Care Quality and Safety Commission is already exploring the development of such Guides for services catering to service users captured by the Note under subsection 22(4), and welcome these efforts. The Remote Accord recommends the development of such a Guide for remote aged care services and regulators as a matter of priority and is eager to be involved in any processes pertaining to this issue.

An increased regulatory burden risks disincentivising workers

The Remote Accord understands the need for regulatory instruments that protect older people and ensure the safety of Australians accessing aged care services. We acknowledge that the legislator seeks to balance these measures to ensure regulatory response to bad behaviour is appropriate, measured, and fair. We would caution though against implementing such legislation without appropriate supportive measures in place to assure services and workers are able to confidently implement change.

Without the presence of necessary accompanying supports, certain regulatory measures such as fines, run the risk of becoming disincentives for workers in the aged care sector. This concern is particularly pronounced in remote Australia, where our surveys indicate that local communities already harbor apprehensions about engaging in participation in the aged care workforce due to the substantial responsibility and regulatory burden associated with it.

Measures such as screening processes and responsible person processes pose similar challenges for remote communities and employers; where these processes are overly complex, administratively burdensome, or hard to navigate, they become barriers to entry for small service providers who may wish to employ from local communities but will require significant support to navigate how to do so.

While we acknowledge the importance of regulatory measures in maintaining standards, it is paramount that such measures are implemented judiciously and complemented by comprehensive

supporting documentation, guidelines, and the establishment of strong relationships between service providers and regulators. Remote employers also need a clear timeline outlining when particular regulations come into effect, and where they might be able to seek support in interpreting and meeting regulations. Furthermore, education initiatives should be robustly in place to ensure that workers are not only aware of regulatory expectations but also equipped with the necessary knowledge and skills to meet them.

Even the *perception* of being at risk of suffering fines and other severe penalties may further discourage the engagement of local workforces, who may face challenges related to literacy, numeracy, and access to formal training. The complex paperwork, reporting requirements, employee screening requirements, and documentation procedures that the New Act entails disproportionately affect local workforces who are more likely to have limited formal education or experience difficulties with written communication. This situation not only hinders their ability to actively contribute, but also undermines the value of their cultural knowledge and community connections. Additionally, the reliance on formal training programs can pose difficulties for indigenous workers who might encounter geographical barriers and limited access to educational resources. As a result, the regulatory demands of the New Act could unintentionally reduce meaningful choice for individuals accessing aged care in remote areas of Australia by limiting the participation of culturally appropriate local workforces.

This risk also extends to potential service provider board members from remote communities, who may feel intimidated and discouraged by a perceived increase in responsibility and potentially severe penalties should they fail to meet unrealistic expectations. This in turn risks further distancing local community members from the services they access.

The Remote Accord recommends that a robust program of education, guidance, and relationship building be undertaken with remote and very remote service providers to ensure that the implementation of the New Act is as intended and does not inadvertently discourage workforce participation in remote Australia. This program should be tailored to remote service providers and their particular challenges, and seek to ensure that local workforces are confident they understand their responsibilities and where to go for support if they feel they are at risk of not meeting standards. Remote services also require a clear and detailed implementation timeline of their changing regulatory responsibilities.

The Future of NATSIFACP

The National Aboriginal and Torres Strait Islander Flexible Aged Care Program (NATSIFACP) plays a vital role in ensuring service provision to Aboriginal and Torres Strait Islander people in remote areas of Australia.

Although a relatively small program when compared to the aged care sector as a whole, NATSIFACP is vital for the on-going care of First Nations elders who are living in their communities in remote and very remote Australia, care which is dependent upon the viability of providers in these communities. The majority of NATSIFACP places, both for home care and residential care, are located in remote and very remote locations¹. It must therefore be understood that although a small number nationally, the impact to remote and very remote services of ceasing this program would be significant.

There has been uncertainty of the future of NATSIFACP since before the AN-ACC model was introduced, and services currently operating through NATSIFACP remain concerned about their future security. We understand that the New Act does not aim to address those concerns, however given the intensive ongoing changes in the legislative landscape we urge legislators to provide certainty to NATSIFACP services about their future, so that proper planning can be undertaken.

¹ Australian Institute of Health and Welfare, Aged Care Data Snapshot 2022-third release, https://www.gen-agedcaredata.gov.au/www_aihwen/media/Data-Snapshot/Aged-Care-Data-Snapshot-2022-Release-3.xlsx, accessed 14/08/2023