



Volunteering Australia

**Response to National Disability Insurance Scheme (NDIS) Code of Conduct
Department of Social Services (DSS)**

June 2017

Volunteering Australia Contacts

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About Volunteering Australia

Volunteering Australia is the national peak body for volunteering. We work to advance volunteering in the Australian community.

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

We work collectively with the seven State and Territory volunteering peak bodies to deliver national, state/territory and local volunteering programs and initiatives in accordance with the Government's priorities.

Introduction

Volunteering Australia welcomes the opportunity to provide a response to the Department of Social Services on the proposed National Disability Insurance Service (NDIS) Code of Conduct. The Code of Conduct is a key feature under the Quality and Safeguarding Framework.

This submission responds to the Department of Social Services' Discussion Paper on a framework for the NDIS Code of Conduct, as well as provides a backgrounder on the code for volunteers, Volunteer Involving Organisations (VIOs) and Volunteering Support Services (VSSs), the critical infrastructure for safe, effective and sustainable volunteering in Australia.

The Department of Social Services has identified that a National Code of Conduct should be developed and has outlined expectations for people delivering the NDIS supports and services. This Code of Conduct will be overseen by the NDIS Quality and Safeguards Commission. Under this new national system, governments will design a nationally consistent framework for risk-based worker screening. States and Territories will continue to operate worker screening, but the NDIS Quality and Safeguards Commission will work with screening units to coordinate and ensure a nationally consistent approach. This will consider issues like conviction information, relevant disciplinary information, etc.

Volunteers are considered essential to the provision of supports and services that are integral to the NDIS, and will be required to comply with the Code of Conduct.

This response specifically responds to the application of the Code of Conduct in relation to volunteer involvement in the NDIS – this includes expectations for both providers and workers (volunteers). Issues covered includes the need for specialised education and training, bullying, harassment, sexual misconduct and discrimination, and the National Standards for Volunteer Involvement as a best-practice framework.

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Volunteering Australia Response

Participation of Volunteers in the NDIS

Volunteering plays a critical role in Australia's national identity. Dr Lisel O'Dwyer of Flinders University has estimated the annual economic and social contribution of volunteering in Australia at \$290 billion.ⁱ Volunteering continues to engage many Australians in increasingly diverse and significant ways in society. Recent data also indicates there are 5.8 million Australians, or 31 per cent of the population who engage in formal volunteering activities and programs.ⁱⁱ

In Australia over 4 million people, or 20 per cent of a population of over 23 million people are reported as having a disability. Further, over 1.3 million Australians report having a "profound or severe disability".ⁱⁱⁱ Between 2010-11 there were 2,283 disability support services funded by State/Territory or the Federal Government throughout Australia, managing 13,883 services. The main service providers were (82%) were in the non-government sector, and many of those (86%) were in income tax exempt charities.^{iv}

In relation to the roll-out of the National Disability Insurance Scheme (NDIS), it is important to recognise the critical role the volunteer workforce plays in the delivery of key NDIS programs, supports, and services. Volunteering Australia believes that to ensure that the NDIS adequately recognises and resources Volunteer Involving Organisations, Volunteering Support Services and volunteers, it is essential that the volunteering is fully recognised in the Code of Conduct.

As identified in Volunteering Australia's submission to the Information, Linkages and Capacity Building Commissioning Framework Consultation,^v the NDIS interacts with volunteers in two key ways:

- Volunteers are engaged to work within disability support service organisations;
- The NDIS engages people with barriers more inclusively into society, either through volunteering as an end unto itself, or using volunteering as a pathway to paid employment.^{vi}

In our *2016 State of Volunteering in Australia* report we identified a misalignment between the level of community interest in volunteering in disability services compared to the number of positions to be filled. The report also identified that the disability services sector was fifth-highest for unmet volunteer demand, behind community services, young people, education, and health (with some crossover to be expected between health and disability services).^{vii}

Application of the Code of Conduct

Volunteering Australia agrees that volunteers should comply with the NDIS Code of Conduct, and that anyone should be able to make a complaint about NDIS funded supports, including breaches.

The Code of Conduct discussion paper has outlined a range of compliance and enforcement actions proportionate to the seriousness of the breach. Those who have committed a less serious breach may need to receive additional training and education, warnings and/or directions for breaches. In more serious cases, a provider may face civil penalties, enforceable undertakings, revocation of registration

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or ban orders. Volunteering Australia is supportive of the compliance and enforcement actions proportionate to the seriousness of the breach.

However, there should be adequate mechanisms in place to support “workers”, including volunteers, to feel empowered to make complaints without fear of reprisals. There should also be processes in place where a complaint can be escalated if there is a circumstance where it may not be supported by the provider, or where an NDIS participant is unable to speak up.

The discussion paper has outlined that providers and volunteers should raise and act on concerns relating to the safety or quality of NDIS supports and services being delivered. Volunteer Involving Organisations should also feel supported and empowered to contact the NDIS Quality and Safeguards Commission with concerns, and report all incidents, including any involving violence, exploitation, neglect or abuse.

Volunteers should also be able to raise concerns with their employer in the first instance, and are encouraged to contact the NDIS Quality and Safeguards Commission if their concerns are not adequately addressed. Volunteering Australia commends the Department for including whistleblower provisions in the legislation by establishing the NDIS Quality and Safeguards Commission. However, we query whether these provisions extend to the volunteer workforce, and recommend that they be extended to include volunteers and their providers.

National Standards for Volunteer Involvement

Volunteering Australia recommends the use of the *National Standards for Volunteer Involvement* as a best-practice guide for volunteer participation in the NDIS. The National Standards have been developed in consultation with the volunteering sector to support the involvement of volunteers and act as a resource for organisations in which volunteers are involved. They are a best-practice framework for organisations to consider the role of volunteers within their organisations and cover the impact effective volunteer involvement can have on achieving strategic goals.

The advice provided by the *National Standards for Volunteer Involvement* state that volunteers should be given information about how to make a complaint or raise a concern within an organisation and to relevant external bodies. In addition, the standards advise that grievances from volunteers should be managed consistently, transparently, equitably and in line with the principles of natural justice.

Specialist Education and Training

At Volunteering Australia, we believe that people with disability deserve to live free from discrimination. Specialist training for volunteers in the disability support workforce is essential to negate abuse and exploitation. However, volunteers should receive adequate support, education and training to engage with people with disability. The need for this is heightened by rapid change, turnover and demand within the disability support workforce.

In disability support, training needs to be specialised and can be particularly resource-intensive. This issue was identified in the 2011 Productivity Commission Report, in regards to a huge increase in the number of volunteers in the aged care workforce. The report noted, “Funding for services which

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engage volunteers in service delivery should consider the costs associated with: volunteer administration and regulation; and appropriate training and support for volunteers.”^{viii}

Volunteering Australia believes that Disability Awareness Training is of profound benefit to Volunteer Involving Organisations, and is essential to delivering a human-rights based approach to service. Volunteering Australia’s 2016 *State of Volunteering in Australia Report* identified that many smaller Volunteer Involving Organisations may not have had the opportunity to participate in Disability Awareness Training, either due to funding restraints or lack of access.^{ix}

Adequate supports and mechanisms need to be initiated to produce the best possible outcomes for NDIS participants. We recommend that for the effective delivery of supports and services, education and training should be in line with the *National Standards for Volunteer Involvement*.

Privacy and Personal and Professional Liability

Volunteers, Volunteer Involving Organisations and managers of volunteers, must be aware of the statutory rules and regulation in place around the privacy of people with disability. To ensure that there is complicity with the relevant statutes, Volunteering Australia recommends education and training prior to involvement in the NDIS, so that both providers and workers are aware that they must not disclose personal details and information about a person with disability without consent.

Volunteering Australia believes that the health, safety and wellbeing of both volunteers and people with disability are paramount and should be protected in the workplace. Organisations should include volunteers in its health and safety procedures and recognise the duty of care toward volunteers. To meet this, volunteers should be insured for personal injury and liability, and have access to the same post-incident debriefing and support provided to paid employees.

Bullying, Harassment, Discrimination and Sexual Misconduct

Volunteers have the same rights as paid staff not to be sexually harassed, and providers have a duty of care to guarantee all staff (paid or unpaid) are working in a safe and equitable environment. In the same way, volunteers are obligated not to bully, harass, discriminate or commit an offence against participants of the NDIS. While volunteers are protected from sexual harassment in the workplace under the *Sex Discrimination Act 1984 (Cth)*, the introduction of the Code of Conduct will provide an instrument for NDIS participants to pursue instances of misconduct.

Bullying is also a breach of trust and a major rights violation, impinging on human rights of the people with disability and the individual volunteer. While volunteers have rights under the law, they are not covered by awards or workplace agreements in the same way as paid employees. Employers must consider best practice guidelines, such as Volunteering Australia’s *National Standards for Volunteer Involvement*, when involving volunteers in an organisation.

Volunteering Australia would like to highlight that a lot of legislation does not specifically apply to volunteers. Further, by not being covered by awards or work-place agreements, volunteers may not feel empowered or adequately supported to escalate their complaint internally or to file a complaint with the external bodies available to them if they witness instances of bullying, harassment,

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exploitation or abuse. There also needs to be clarity on what are volunteer rights, to protect volunteers, Volunteer Involving Organisations, and managers of volunteers. By establishing a clear set of definitions on the rights of volunteers, there will be a parity of esteem between paid and unpaid staff.

Volunteering Australia also recommends that as part of best practice, it is critically important that there are well-trained managers of volunteers who can manage complex situations, and who are supported in their roles.

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Summary of Recommendations

- Volunteering Australia recommends the use of the *National Standards for Volunteer Involvement* as a best-practice guide for volunteer participation in the NDIS.
- Whilst-blower provisions to extend to volunteers and their providers.
- Specialist education and training for volunteers in the disability support workforce is essential to negate abuse and exploitation.
- Education and training prior to participation in the NDIS, so that volunteers, volunteer managers and Volunteer Involving Organisations are aware of privacy regulations in place.
- Adequate mechanisms in place to support volunteers to feel empowered to make complaints without fear of reprisals.
- Volunteers should be insured for personal injury and liability, and have access to the same post-incident debriefing and support provided to paid employees.
- Have effective volunteer management systems in line with the *National Standards for Volunteer Involvement* to make sure both staff and volunteers are aware of their rights, responsibilities and duties.
- Have well-trained managers of volunteers who can manage complex situations, and who are supported in their roles.

Conclusion

Volunteering Australia appreciates the opportunity to provide comment on the proposed NDIS Code of Conduct. We are committed to working with the relevant agencies to advance these measures and would welcome further opportunities to consult on or expand on our recommendations raised in this response.

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Authorisation

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



Ms Adrienne Picone
Chief Executive Officer

Endorsements

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

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- ⁱ Flinders University (31 October 2014) 'Volunteering worth \$290 billion a year', <http://blogs.flinders.edu.au/flinders-news/2014/10/31/volunteering-worth-290-billion-a-year>
- ⁱⁱ Australian Bureau of Statistics (2015) 'General Social Survey: Summary Results, Australia, 2014', available online at <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4159.0>.
- ⁱⁱⁱ Volunteering Australia and Volunteering and Contact ACT (2016), Submission to NDIA ILC Framework Consultation, p3.
- ^{iv} Turbit, Patrick for 3 Bridges Community (2016) Volunteering in the NDIS, p8.
- ^v National Disability Insurance Agency (December 2015) Information, Linkages and Capacity Building Commissioning Framework – Consultation Draft. Available online at http://www.ndis.gov.au/sites/default/files/ILC-Commissioning-Framework-Consultation-Draft_0.pdf.
- ^{vi} Volunteering Australia and Volunteering and Contact ACT (2016), Submission to NDIA ILC Framework Consultation.
- ^{vii} Volunteering Australia and PwC (2016) 2016 State of Volunteering in Australia, pvii, <http://www.volunteeringaustralia.org/wp-content/uploads/State-of-Volunteering-in-Australia-ExecutiveSummary1.pdf>.
- ^{viii} Commonwealth of Australia (2013) 'Portfolio Budget Statements 2013-14: Budget Related Paper No. 1.14, Prime Minister and Cabinet Portfolio', https://www.dpmc.gov.au/sites/default/files/publications/pbs_2013-14_Portfolio.doc, p25.
- ^{ix} Volunteering Australia and Volunteering and Contact ACT (2016), Submission to NDIA ILC Framework Consultation, p9.