



Submission to the Department of Health

Care and Support Sector Code of Conduct

December 2021

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Information for Readers

This is submission in relation to the proposed new code of conduct for the care and support sector, which is to be based on the NDIS code of conduct. The response was delivered through an online questionnaire. The consultation questions are highlighted in red, with our submitted responses below. Some of these questions allow only a yes or no answer.

For your reference, below is the wording of the proposed code of conduct, taken from Appendix A of the consultation paper . Original terminology is struck out and replaced in some cases to reflect the cohort of people without disabilities who would be covered by this code if it were introduced across the entire care and support sector.

The Proposed Code of Conduct

In providing ~~care, supports and services~~ ~~supports or services to people with disability~~, a Code-covered person must:

- a) act with respect for individual rights to freedom of expression, self- determination and decision-making in accordance with applicable laws and conventions; and
- b) respect the privacy of people ~~with disability~~ being provided with care, supports and services; and
- c) provide ~~care, supports and services~~ ~~supports and services~~ in a safe and competent manner, with care and skill; and
- d) act with integrity, honesty and transparency; and
- e) promptly take steps to raise and act on concerns about matters that may impact the quality and safety of care, supports and services ~~supports and services~~ provided to people ~~with disability~~ being provided with care, supports and services; and
- f) take all reasonable steps to prevent, and respond to, and provide care, supports and services free from, all forms of violence against, and exploitation, neglect and abuse of, people ~~with disability~~ being provided with care, supports and services; and
- g) take all reasonable steps to prevent, and respond to, and provide care, supports and services free from, sexual misconduct.

Executive Summary

This brief submission, in responding to the Department's questionnaire, recommends additional elements which should be included in a new code of conduct for the care and support sector, referring in particular to the Charter of Aged Care Rights, the final report by the Royal Commission into Aged Care Quality and Safety, and the United Nations Convention on the Rights of Persons with Disabilities. New principles to be added to the code should include:

- Promotion of independence wherever possible, and
- Cultural safety.

Our responses also note the importance of clear guidance around the need for information to be delivered, by both workers and providers, in accessible formats, and a robust and accessible complaints process which would enable people receiving supports to raise issues about their care.

Responses to Consultation Questions

1. Do you support the inclusion of the seven elements drawn from the NDIS Code?

Yes

2. If not, why not?

N/A

3. Are there any other elements that should be included in the draft Code?

Yes

4. If so, what elements should be included and why?

Independence

One of the most common misconceptions about vision disability is that it results in very significant dependence on others. The prevalence of this attitude is proven both by lived experience and objective research. People who are blind or have low vision tell our members that they repeatedly face negative assumptions about their capacity within society. A recent survey from Vision Australia found that 83 per cent of employees were “not confident” in hiring a person with a vision impairment.

Unfortunately, these negative assumptions are shared by some people in the care and support workforce. The code already protects the rights of people to make their own decisions, but our members believe this is not sufficiently specific to promote the right of people receiving support within the care and support sector to seek to do as many things independently as possible.

With appropriate equipment and training, a person who is blind or has low vision can perform many of the same tasks and enjoy many of the same activities as a person with full sight. When there is no secondary disability or health condition, they may not need to rely as much on more traditional kinds of care and support.

Being able to travel in the community, prepare food, sign forms, or even move around the home by oneself is entirely possible for a person with vision loss. But our members have heard of aged care residents who couldn't enjoy those freedoms, because they were denied access to basic assistive technology such as portable magnifiers, and training that would have enabled independent travel. Attempting some tasks without appropriate strategies in place would result in significant safety risks, but many aged care providers and workers don't consider these adaptations and strategies. Aged care facilities also frequently lack key accessibility features such as Braille signage or tactiles. As a result, residents with vision loss often must rely on others to navigate their own homes.

Element A of the draft code already refers to “self-determination”, but this concept does not fully encompass the kinds of freedom and dignity of risk we hope providers and workers can understand. The Royal Commission into Aged Care Quality and Safety saw promoting

independence as one of the priorities of their reform agenda. Recommendation 1 from the final report by the Royal Commission into Aged Care Quality and Safety suggests the new act should define aged care as “support and care for people to maintain their independence as they age”.

Clause 9 of the current Charter of Aged Care Rights notes the right to independence, and clause 7 notes the right to “have control over and make choices about my care, and personal and social life, including where the choices involve personal risk”.

Article 19 of the United Nations Convention on the Rights of Persons with Disabilities, to which Australia is a signatory, recognizes the right of all persons with disabilities to “living independently and being included in the community”, and asks States Parties to take effective measures to ensure people with disabilities have “choices equal to others”.

Article 20 discusses the right to “personal mobility”. Clause C of that article notes that States Parties should ensure personal mobility by “Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities”.

Vision 2020 Australia therefore calls for a new Element C for the code of conduct which asks a code covered person to “offer services in a way that maintains or enhances the independence of people receiving care, supports and services”.

Cultural Safety

Aboriginal and Torres Strait Islander Peoples experience vision loss at 3 times the rate of other Australians. Members have found that many providers don’t acknowledge key elements of their culture. For example, many Aboriginal languages don’t include an equivalent term for disability, which historically has been viewed as a difference, rather than a lack of capacity. But in order to follow the template set by the NDIS, many providers still discuss disability in terms of the deficits it causes.

More recent policy, including the New National Agreement on Closing the Gap and reforms in response to the Royal Commission into Aged Care Quality and Safety, have acknowledged the importance of community-lead and culturally safe services for Aboriginal and Torres Strait Islander people. Clauses 3 and 5 of the Charter of Aged Care Rights also recognize the importance of valuing culture, diversity, and identity, and providing information in a way recipients can understand.

Culturally and linguistically diverse people who are blind or have low vision face very significant adversity as a result of difficulty obtaining information which is both accessible and understandable, especially since one of the most popular ways of responding to people for whom English is a second language is the use of diagrams which are not accessible.

Element A of the proposed code cannot be fully realized without the delivery of culturally safe services, or information in a variety of formats and languages. Nonetheless, our members believe including cultural safety only in the guidance around the code is not sufficient to ensure workers and providers consider it a priority.

Vision 2020 Australia therefore calls for the introduction of a further element to the code of conduct, requiring people covered by the code to “deliver services that are culturally safe, informed, and respectful of identity and diversity”.

5. Is the language proposed in the draft Code relevant across the care and support sector?

Yes

6. If not, what language is preferred and why?

N/A

7. At a high level, what should be covered in the detailed guidance to support providers and workers to adhere to the Code in the aged care and/or veterans' care context?

It is crucial that guidance around all current and potential elements of the code, for both providers and workers, emphasizes the importance of providing informed and respectful services to people with low prevalence disabilities such as blindness or low vision. This guidance is relevant in a variety of contexts.

Independence and Self-determination

Guidance for workers around independence and self-determination should offer more detail about the importance of providing services that promote autonomy. It should also recognize that some tasks cannot be performed independently, and that part of supporting a person's self-determination is respecting what tasks they feel capable of. In short, independence should be encouraged and facilitated, not prescribed.

Of course, there is also an important intersection between independence and safety, but better awareness within the care and support workforce will provide clarity around the strategies and equipment which make it safer for people who are blind or have low vision to perform tasks which might otherwise present danger.

Accessibility

Providing appropriate services to people who are blind or have low vision is not just about the relationship between a recipient and a worker. It's also about the processes around it, such as the signing of service agreements, the accessibility of booking systems, invoices, feedback processes, and premises on which services are delivered.

People who are blind or have low vision necessarily interact with information differently to those with full sight. Methods may include:

- Screen reading software, available for most popular smartphones and computers, which verbalizes information a sighted person would typically view;
- Magnification software, similarly, available on many popular devices, which increases the size and improves contrast of on-screen text;
- Portable or desktop magnifiers;
- Braille;
- Human-narrated audio.

The NDIA, following consultation with the sector, now leads by example, with a comprehensive accessibility policy, aiming to deliver information in participants' preferred format. But service providers, across all three sectors, are less consistent in their approach to accessibility. People who are blind or have low vision are often asked to read terms and conditions and sign agreements via paper-based forms. When providers recognize that this will not be achievable, they may offer to personally assist their client in filling out paperwork. This however is not in keeping with Element B of the proposed code of conduct. Particularly when it comes to surveys about client satisfaction, a client is unlikely to provide negative feedback about a provider when a representative of that provider is assisting them to complete the survey.

Similarly, with a representative as their intermediary, a potential client is more likely to sign a set of terms and conditions partially or completely unread, or accept elements of a contract they aren't fully comfortable with to avoid confrontation. While these situations are not intended by providers or workers, and are largely a result of low awareness of vision disabilities, they do not allow a person who is blind or has low vision their right to self-determination, as noted in Element A of the code of conduct, nor to the new element of independence proposed in an earlier response.

Accessibility is prioritized both by Australia's Disability Strategy 2021-2031 and Article 9 of the United Nations Convention on the Rights of Persons with Disabilities. It cuts across every element of the proposed code, and compliance cannot be fully achieved without it. Vision 2020 Australia therefore calls for:

1. Guidance for workers to include information about the importance of facilitating delivery of accessible information where possible, and
2. Guidance for providers to include information about how prioritizing accessibility of information and premises is a necessary part of delivering all elements of the code.

Importantly, guidance around the code should make clear that it is the providers' responsibility to ensure workers are well informed about the needs of people they are supporting. This decreases the likelihood of workers being given the responsibility to undertake significant unpaid professional development.

8. What considerations are relevant to enforcing the Code in the aged care context?

Where services received by care workers fall short of the Code, people must be able to raise issues and complaints. Current aged care complaints processes are not accessible to older Australians who are blind or have low vision. Until all people receiving care and supports are equally capable of making a complaint, it is not possible for any code or charter to be enforced.

A single, accessible complaints process, to be instituted across all three sectors, based on the NDIS complaints process which is the most accessible should be created to support enforcement of the Code.

9. What considerations are relevant to enforcing the Code in the veterans' care context?

No feedback has been provided in relation to this. Member comments are welcomed.

10. What other intersections need to be considered as part of the implementation of the Code?

In this submission, we have made a variety of references to the Charter of Aged Care Rights. Members believe that, though it is possible for the Charter of Rights and the code of conduct to co-exist, we would argue that the code of conduct should aim to protect and enshrine the elements of the Charter. We would also argue that an exceptionally large number of older Australians who are blind or have low vision are not receiving services that respect the rights outlined in the charter. This implies a problem with enforcement and/or awareness. Vision 2020 Australia would suggest close consideration of why the Charter of Aged Care Rights has not yet had a significant impact on the quality of service provision.

Finally, we would note that the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disabilities is currently investigating weaknesses and deficiencies in service provision. The recommendations in its final report will very likely necessitate a further review of this code of conduct, and a further consultation process.