

# Submission: Exposure Draft of the Inspector-General of Aged Care Bill

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## Overview

Volunteers are an essential but distinct component of Australia's aged care workforce.

This submission responds to the Australian Government's call for feedback on the Exposure Draft of the Inspector-General of Aged Care Bill (the Bill) which will establish a new independent statutory office – the Inspector-General of Aged Care (Inspector-General) – to provide oversight of, and to drive improvements in the aged care system.

It will be critical for the Inspector-General, as a statutory officer holder reporting to Parliament, to specifically consider, report on and monitor volunteer engagement in the sector in a fit-for-purpose way, noting that volunteers are an essential but distinct component of the aged care workforce.

In relation to the broader suite of aged care reforms, the Australian Government needs to take a more strategic approach to volunteers in the aged care sector through the development of a national aged care volunteering framework, and to consider the role of volunteers in meeting reform objectives. It will be essential for the Inspector-General to consider volunteers as part of their systemic oversight role.

## Introduction

### Background and context

Volunteers are a vital part of the aged care workforce, as recognised in the Aged Care Workforce Strategy<sup>1</sup>. The Royal Commission into Aged Care Quality and Safety recommendation 44<sup>2</sup> set out how the Australian Government should promote volunteers and volunteering in aged care to support older people to live meaningful and dignified lives.

Participation of volunteers in organisations has been declining for well over a decade, with aged care volunteering particularly badly hit since the onset of COVID19<sup>3</sup>. The Australian Government has funded Volunteering Australia to lead the development of a new National Strategy for Volunteering<sup>4</sup> in response to this decline and other challenges being faced.

The new National Strategy for Volunteering is being launched in February 2023. In the discovery phase of the project to design the new strategy, which involved over 400 consultation meetings and forums in 2022, one of the key insights that emerged was the burden of current regulation. In the Discovery Insights<sup>4</sup> report, the volunteering ecosystem called for 'fit-for-purpose' regulation and highlighted several concerns with existing regulatory regimes in placing burdens on organisations and in discouraging volunteers.

Reform in aged care, including the role of the Inspector-General, needs to be understood in this wider volunteering context and support the continued, and increased, engagement of volunteers in aged care.

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<sup>1</sup> <https://www.health.gov.au/resources/publications/a-matter-of-care-australias-aged-care-workforce-strategy>

<sup>2</sup> The full list of the Royal Commission's recommendations available here  
<https://agedcare.royalcommission.gov.au>

<sup>3</sup> <https://www.volunteeringaustralia.org/wp-content/uploads/AGED-CARE-CENSUS-2020-factsheet-Final.pdf> <sup>4</sup>  
<https://volunteeringstrategy.org.au/>

<sup>5</sup> <https://volunteeringstrategy.org.au/wp-content/uploads/2022/08/National-Strategy-for-VolunteeringDiscovery-Insights-Report.pdf>

## About the consultation

The Department of Health and Aged Care (the department) is leading the development of a wide range of reforms including a new Aged Care Act, regulatory model, mandatory code of conduct and a new in-home Aged Care Program. This follows several reviews into aged care, including the Royal Commission into Aged Care Quality and Safety, which all found that the aged care system needs significant improvement. The Royal Commission recommended the establishment of an Inspector-General to improve transparency and accountability across the aged care system and address longstanding sector-wide problems, or ‘systemic issues’, in aged care. Issues, according to the Royal Commission, include inadequate funding, variable provider behaviour, a lack of system leadership, and poor access to health care amongst people receiving aged care.

The Bill will establish the new role of the Inspector-General and its supporting Office, and give the Inspector-General the authority and tools they will need to be effective. The Bill has several sections: Objects and functions, which describe the Inspector-General’s role and the objectives of the Bill; and Systemic oversight which provides the framework for the Inspector-General’s oversight role. The oversight role is comprised of three elements: reviews, reporting and monitoring. The reporting component of the Bill will require the Inspector-General to examine the progress of reforms in response to the Aged Care Royal Commission, including a 5 and 10-year review. The Royal Commission recommendation 44 set out how the Australian Government should promote volunteers and volunteering in aged care to support older people to live meaningful and dignified lives. The Inspector-General will report on progress towards this goal.

## About the submission

This submission was drafted by Volunteering Australia in collaboration with the State and Territory peak volunteering bodies. It complements previous ones concerning aged care and the wider care and support sector, most recently:

- Submission on the Aged Care data strategy<sup>6</sup>
- Submission on the Care and Support Sector Code of Conduct<sup>7</sup>
- Submission on Aligning Regulation across Aged Care, Disability Support, and Veterans’ Care<sup>8</sup>
- Submission to the Royal Commission into Aged Care Quality and Safety<sup>9</sup>
- Submission on a New Regulatory Model for Aged Care<sup>10</sup>
- Submission on the new in-home Aged Care Program<sup>11</sup>
- Independent Capability Review of the Aged Care Quality and Safety-Commission<sup>12</sup>

<sup>6</sup> <https://www.volunteeringaustralia.org/download/153/2022/30934/volunteering-australia-submission-on-the-aged-care-data-strategy.pdf>

<sup>7</sup> <https://www.volunteeringaustralia.org/download/154/2021/26963/december-2021-submission-on-the-careand-support-sector-code-of-conduct.pdf>

<sup>8</sup> <https://www.volunteeringaustralia.org/download/154/2021/26964/december-2021-submission-on-aligningregulation-across-the-care-and-support-sector.pdf>

<sup>9</sup> <https://www.volunteeringaustralia.org/download/142/2020/22701/july-2020-submission-to-the-royalcommission-into-aged-care-quality-and-safety.pdf>

<sup>10</sup> <https://www.volunteeringaustralia.org/download/153/2022/30935/october-2022-submission-on-a-newmodel-for-regulating-aged-care.pdf>

<sup>11</sup> <https://www.volunteeringaustralia.org/download/153/2022/31550/november-2022-submission-on-a-newprogram-for-in-home-aged-care-discussion-paper.pdf>

<sup>12</sup> <https://www.volunteeringaustralia.org/policy/submissions/>

## Volunteers in aged care

Volunteers contribute in significant and diverse ways across aged care. The 2016 National Aged Care Workforce Census and Survey estimated that volunteers were engaged extensively across both residential and in-home aged care, with 83 per cent of residential facilities and 51 per cent of in-home aged care providers engaging the services of volunteers.

The roles volunteers undertake differ across residential and in-home aged care. For example, volunteers are more likely to undertake 'shopping/appointment assistance' and 'meal-preparation assistance' in in-home aged care than in residential facilities. Community aged care providers are more likely to engage volunteers in 'transport assistance' than residential aged care providers<sup>13</sup>

The more recent 2020 Aged Care Census revealed that volunteers were disproportionately affected by the COVID-19 pandemic compared to the paid workforce, with volunteer activity decreasing significantly and not yet returning to pre-pandemic levels. This has been evident across both residential and in-home care.

The wide-ranging reforms being developed from now through until 2025 need to rebuild, drive and embed volunteer participation in aged care. The extent of reforms and the failure to delineate volunteers from paid workers risks unintended consequences to the volunteer workforce.

To mitigate this, the Australian Government needs to take a more strategic approach to volunteers in the aged care sector, through the development of a national aged care volunteering framework, and to consider the role of volunteers in meeting reform objectives.

## Feedback on the exposure draft

Our feedback on the Exposure Draft is general in nature as there is no specific section relating to volunteers, making it difficult to engage on these issues. Volunteers are included throughout the current aged care reforms under the definition of "worker". It is critical, therefore, for the Inspector-General to actively and separately consider volunteers and volunteering at a systemic level and support work towards the reduction of barriers to volunteering, such as onerous mandatory training and the risk of regulatory penalties and sanctions, which could also flow from some of the proposed wider reforms to aged care, creating disincentives for volunteer engagement, satisfaction and retention.

This is particularly relevant in relation to the Inspector-General's systemic oversight role, which includes reporting on progress towards the implementation of the recommendations of the Royal Commission into Aged Care Quality and Safety and towards the achievement of recommendation 44: for the Australian Government to promote volunteers and volunteering in aged care to support older people to live meaningful and dignified lives. Volunteers are different from paid workers in their role types, obligations, and work expectations. Our main concern is for volunteers to be considered as an essential, but distinct, component of the aged care workforce so that the volunteer workforce can be rebuilt, maintained and expanded. To achieve the goal of recommendation 44, volunteers must be treated in a fit-for-purpose way.

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<sup>13</sup><https://www.volunteeringaustralia.org/wp-content/uploads/AGED-CARE-CENSUS-2020-factsheet-Final.pdf>

## Objects and Functions (Role of the Inspector-General)

Noting our position that policies for volunteers should be tailored, with careful consideration of the unique nature of volunteering roles and the clear difference between paid and volunteer workers and their related risk profiles, we support the proposed role of the Inspector-General to undertake the following functions:

- provide independent oversight of the aged care system
- identify systemic issues through independent reviews and making recommendations for improvement
- ensure relevant entities with a governance or administrative role within the aged care system are subject to greater scrutiny and accountability
- provide oversight of the complaints management framework across the aged care system
- report publicly on systemic issues, the extent to which the aged care system attains the objectives of the aged care legislation, and progress on the implementation of aged care reforms.

We argue that regulations and the code of conduct already enacted or proposed in the new aged care system need to be tailored for the volunteer workforce and that the Australian Government should take a more strategic approach to volunteers in the aged care sector.

This extends to consideration of what is 'reasonable' to expect of volunteers in order to meet the more onerous tests covered through a range of measures such as the new code of conduct and whether mechanisms such as sanctions, financial penalties, banning orders and mandatory obligations (for example, awareness of privacy laws and workplace safety provisions) are legally appropriate. These issues could be considered under the Inspector-General's systemic oversight role.

The creation of a new Inspector-General of Aged Care is an opportunity to consider volunteering in aged care from a systemic viewpoint.

## Systemic oversight (Reviews, Reports and Monitoring)

We understand the intention is for the Inspector-General to provide independent oversight and drive greater transparency and accountability across the whole aged care system. Through reviewing systemic issues in the sector and reporting to Parliament, the intent is that the Inspector-General will drive continuous improvement in aged care, with the aim of building confidence in an aged care system that meets the diverse needs of older Australians. The Inspector-General will also need to maintain a comprehensive understanding of what is happening across the aged care sector through independent monitoring.

We support the approach to reviews, reporting and monitoring and acknowledge that consideration of volunteering at a systemic level could be beneficial for volunteering. It is essential, however, that there is no additional administrative burden for volunteers themselves.

## Information gathering powers; and criminal offenses and civil penalties.

As recommended by the Royal Commission, the Bill confers several powers on the Inspector-General. The Inspector-General will be able to require a person to provide information, and documents or to

answer questions if they reasonably believe it is relevant to performing oversight of the aged care system.

The Inspector-General will be granted authority to access buildings of government and non-government organisations who receive funding from the Australian Government for aged care. While they are on site, the organisation would be required to provide the Inspector-General with access to any documents or other property to allow them to undertake their work.

We understand the need for these powers, including criminal and civil penalties for the refusal to provide information, for the Inspector-General to carry out their role.

We are pleased that the consultation documentation states that the Inspector-General would only use these powers on parties delivering age care directly in exceptional and rare circumstances. We interpret this to mean that volunteers would rarely be directly affected.

## Recommendations

- Oversight of the aged care system needs to consider the volunteering context and support the continued, and increased, engagement of volunteers in aged care.
- It will be critical for the Inspector-General, as a statutory officer holder reporting to Parliament, to specifically consider, report on and monitor volunteer engagement in the sector, noting that volunteers are an essential but distinct component of the aged care workforce.
- The ability to differentiate between paid workers and volunteers must be a feature of the new Aged Care Act.
- Volunteers are directly relevant in relation to the Inspector-General's systemic oversight role, which includes reporting on progress towards the implementation of the recommendations of the Royal Commission into Aged Care Quality and Safety, including towards the achievement of recommendation 44: for the Australian Government to promote volunteers and volunteering in aged care to support older people to live meaningful and dignified lives.
- The creation of a new Inspector-General of Aged Care is an opportunity to consider volunteering in aged care from a systemic viewpoint.
- The wide-ranging reforms being developed from now through until 2025 need to rebuild, drive and embed volunteer participation in aged care.
- To avoid unintended consequences the Australian Government needs to take a more strategic approach to volunteers in the aged care sector, through the development of a national aged care volunteering framework, and to consider the role of volunteers in meeting reform objectives.

## Authorisation

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



Mr Mark Pearce  
Chief Executive Officer

## Endorsements

This position statement 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 a strong, connected, and resilient Australian community through volunteering. Our mission is to lead, strengthen, and celebrate volunteering in Australia.

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