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<https://agedcareengagement.health.gov.au/engagement/help-design-a-new-approach-to-regulating-aged-care/>

Dear Sir/Madam

Response to the consultation about A New Model for Regulating Aged Care (Consultation Paper No. 1)

The Australian Psychological Society (APS) commends the Government's commitment to aged care reform to improve protections and support the delivery of quality and safe care for older Australians. We welcome the opportunity to provide feedback to the Department of Health and Ageing (the Department) about the proposed new model for regulating aged care in Australia.

The APS works to improve the lives of Australians through psychology. As with all our work at the APS, we consider issues in light of the global Sustainable Development Goals (SDGs)¹. Of relevance to this consultation is *SDG 3 Good Health and Wellbeing* which aims to "ensure healthy lives and promote well-being for all at all ages". The APS is also committed to advocating for the protection and realisation of human rights for all older persons, including those who access aged care².

The APS welcomes the development of a new regulatory model for aged care that aims to "strengthen and enhance the protections, rights and the delivery of services provided to older Australians (p. 20)"³ and supports the objectives of the new Aged Care Act.

There is, however, insufficient detail provided in the consultation paper about key aspects of the proposed new model for regulating aged care. Below we identify three key recommendations to guide the next stages of the Department's development of the new aged care regulation model and associated work.

Recommendation 1: Ensure regulatory tools and safeguards can address the human rights-based and person-centred foundations of the new model

It is not clear how the new model for regulating aged care will address the challenge of regulating human rights-based and person-centred approaches to aged care.

The APS strongly supports the recommendations of the Royal Commission into Aged Care Quality and Safety (the Royal Commission) that human rights be the cornerstone of Australian aged care reform and be supported by responsive regulation⁴. We commend the Government on the proposed rights-based approach to the new Aged Care Act and note the foundations of the new regulatory model include the pillars of rights-based and person-centred approaches in addition to risk-based and continuous improvement approaches.

However, the consultation paper provides scant detail about how the human rights and person-centred foundations will be regulated and indicates these are matters for ongoing consideration.

On the face of it, the current tools and safeguards of the proposed new regulatory model are predominately focused on risk-based and continuous improvement regulatory drivers. More work is needed to ensure regulatory tools and safeguards for human rights and person-centred approaches are fit-for-purpose.

Recommendation 2: Provide details and timelines for the reform of regulator governance

It is not clear how or when regulator governance will be reformed for quality and safety assurance in aged care.

As noted in the consultation paper, the Royal Commission recommended improvements to system leadership and governance for the regulator as well as providers⁴. While the importance of reforming regulator governance is noted in the consultation paper “to enable it to better direct resources more efficiently and effectively (p. 32)”, the consultation paper provides limited detail about this and indicates these are matters for ongoing consideration.

In a previous submission to the Department about regulatory alignment across the care and support sector⁵, the APS argued for additional regulatory obligations for the Commonwealth entities (additional to provider and worker regulation). Based on the challenges reported by our members and the NDIS participants they support; we used the example of the introduction of the NDIA Participant Service Guarantee (PSG) as a long overdue and necessary regulatory step to help address NDIA issues associated with poor NDIS participant experience.

We also argued that regulations for Commonwealth entities must be aligned with human rights and person-centred approaches and include accountabilities based on the evaluation of the impact on participants' lives rather than only focusing on quantitative performance measures (e.g., establishing transparent timelines, service standards and performance reporting).

Recommendation 3: Avoid duplication of registration-related requirements for allied health professionals and care sector workers

It remains unclear how worker registration-related requirements (e.g., registration processes, code of conduct, education and training, complaints processes) will avoid duplicating existing systems for allied health professionals, including those who work across the care sector.

In previous submissions to the Department about regulatory alignment across the care sector and a shared code of conduct for the care sector^{5,6}, the APS reminded the Department that psychologists, and other AHPRA registered health professionals, operate within well-established and stringent regulatory models and often work across the care and support sector (aged care, NDIS, veterans support service). Any regulatory requirements that duplicate existing systems is an inefficient use of limited public resources and places an unnecessary burden on psychologists and other allied health professionals. We are deeply concerned that failure to address and streamline registration-related matters will discourage psychologists and other allied professionals from entering the aged care sector, particularly as sole traders and individuals.

We note from the consultation paper that worker registration under the new regulatory model will be the subject of future stakeholder consultation. We also note as per a recent Departmental communication that the care sector code of conduct regulatory tool will be implemented on December 1, 2022 but will only apply to the aged care sector with further work underway as to how the code of conduct may align across the care and support sector⁷.

The APS looks forward to participating in this future work and calls for the publication of a timeline for care sector regulatory alignment work and consultations to assist the consumers, providers and the workforce to be fully involved in decision making. Regulatory alignment with existing systems and across the care sector will increase the flexibility and mobility of the workforce to operate nationally.

Recommendation 4: Develop data and information systems and infrastructure that adequately captures allied health service provision

The consultation paper provides insufficient details about the focus of data and information reforms.

As noted in the consultation paper, regulatory intelligence requires that the right data and information is collected and that ongoing engagement with the sector and all stakeholders is essential for evidenced-based regulatory and policy decision making. This requires investment in systems and infrastructure that enable the safe sharing of essential services information quickly and efficiently amongst key stakeholders without increasing administrative burden for workers and consumers.

Psychology and allied health must be included as a critical part of the service data across the aged care system. There has generally been limited data collected about this kind of service provision in aged care. This has, in turn, undervalued the role of psychologists and allied health and sidelined this type of service provision with regard to policy and regulatory decision making. Allied health in home care will be reported for the first time soon, but only as an undifferentiated category combining all allied health professions (e.g. psychology, physiotherapy, speech and language pathology and so forth) into one category. The APS is deeply concerned that there are no clear plans for psychology and allied health data collection in residential aged care nor an end in sight for discontinuing the practice of aggregating allied health service provision (including psychology) in aged care.

More detailed information about the required data and information reforms for allied health service provision in aged care is being prepared by Allied Health Professions Australia (AHPA) in response to the Department's consultation *Helping improve aged care data*. This response will be available from their website shortly.

The APS has a long history of working with Government and other agencies to establish regulations and standards to ensure the quality and safety of care provision. The APS has a vital contribution to make to the current reforms across these sectors and welcomes the opportunity to provide input and to partner around critical matters pertaining to the psychology and the allied health workforce. We look forward to contributing to the reforms and helping to design an aged care sector that places older people at the centre and ensures quality and safe supports that enables them to live healthy and fulfilling lives.

If any further information is required from the APS, we would be happy to be contacted through the national office on (03) 8662 3300 or by email at z.burgess@psychology.org.au

Yours sincerely

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Chief Executive Officer

The APS would like to acknowledge and sincerely thank the members who so kindly contributed their time, knowledge, experience and evidence-based research to this submission.

References

1. United Nations Department of Economic and Social Affairs. (2022). *Sustainable development*. <https://sdgs.un.org/>
2. Australian Human Rights Commission. (n.d.). *Human rights and older people*. Australian Human Rights Commission.
https://humanrights.gov.au/sites/default/files/content/letstalkaboutrights/downloads/HRA_older.pdf
3. Australian Government Department of Health and Aged Care. (2022). *A new module for regulating aged care: Consultation paper no. 1*. https://consultations.health.gov.au/best-practice-regulation/aged-care-regulatory-framework/user_uploads/final-new-model-for-regulating-aged-care-sep-2022.pdf
4. Royal Commission into Aged Care Quality and Safety. (2021). *Royal Commission into Aged Care Quality and Safety Final Report—List of recommendations (Volume 3)*.
<https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-recommendations.pdf>
5. Australian Psychological Society. (2021, December 17). *Submission to the Department of Health Cross Agency Taskforce on Regulatory Alignment: Regulatory alignment across the care and support sector*.
<https://psychology.org.au/psychology/advocacy/submissions/professional-practice/2021/response-to-regulatory-alignment-across-the-care-a>
6. Australian Psychological Society. (2021, December 10). *Submission to the Department of Health Cross Agency Taskforce on Regulatory Alignment: Draft Care and Support Sector Code of Conduct*.
<https://psychology.org.au/psychology/advocacy/submissions/professional-practice/2021/response-to-the-draft-care-and-support-sector-code>
7. Holme, K. (Assistant Secretary - Strengthening Providers Branch). (2022, September 29). *The new Code of Conduct for Aged Care* [Personal communication].