



**NACCHO**

National Aboriginal Community  
Controlled Health Organisation  
*Aboriginal health in Aboriginal hands*

[www.naccho.org.au](http://www.naccho.org.au)

# Regulatory Alignment Across Care and Support Consultation

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**Submission to the  
Australian Government**

**December 2021**

## ABOUT NACCHO

**NACCHO** is the national peak body representing 144 Aboriginal Community Controlled Health Organisations (ACCHOs) Australia wide on Aboriginal and Torres Strait Islander health and wellbeing issues. NACCHO's work is focused on liaising with governments, its membership, and other organisations on health and wellbeing policy and planning issues and advocacy relating to health service delivery, health information, research, public health, health financing and health programs. Our members provide three million episodes of care per year for about 380,800 people across Australia, including more than 923,000 episodes of care in remote and very remote regions.

**Sector Support Organisations, also known as affiliates**, are State based and represent ACCHOs offering a wide range of support services and Aboriginal and Torres Strait Islander health programs to their members including advocacy, governance and the delivery of state, territory and national primary health care policies.

**ACCHOs** range from large multi-functional services employing several medical practitioners and providing a wide range of services, to small services which rely on Aboriginal Health Workers/Practitioners and/or nurses to provide the bulk of primary health care services, often with a preventive, health education focus. Our 143 ACCHOs operate approximately 700 facilities, including about 450 clinics. ACCHOs and their facilities and clinics contribute to improving Aboriginal and Torres Strait Islander health and wellbeing through the provision of comprehensive holistic primary health care, and by integrating and coordinating care and services. Many provide home and site visits; medical, public health and health promotion services; allied health; nursing services; assistance with making appointments and transport; help accessing childcare or dealing with the justice system; drug and alcohol services; and help with income support.

Collectively, we employ about 6,000 staff, 56 per cent of whom are Aboriginal and Torres Strait Islander people, making us the second largest employer of Aboriginal and Torres Strait Islander people in the country.

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## Introduction

NACCHO welcomes the opportunity to contribute to the Regulatory Alignment Across Care and Support consultation paper.

Currently, the care needs of Aboriginal and Torres Strait Islander people are not being adequately met. An estimated 7% of Australia's aged-care places need to be allocated to Aboriginal and Torres Strait Islander people aged 45 and over. However, in 2020, this figure was just 2.6% of places, or approximately 150,000 people. In the next decade, the number of our people aged over 50 is projected to double to 250,000.

Figures for NDIS participation reflect a similar trend - currently 6.9% of Australians on an NDIS Plan are Aboriginal and Torres Strait Islander peoples, considerably less than the percentage believed to have a significant disability. Moreover, this data does not reflect the considerable underutilisation of allocated NDIS plans by Aboriginal and Torres Strait Islander people.

While a limited number of Aboriginal Community Controlled Health Organisations (ACCHOs) currently deliver aged-care services and/or disability-care services under the NDIS, this will need to increase significantly to meet the growing needs of our communities to receive culturally safe care services.



Figure 1. Integrated-care model used by ACCHOs

ACCHOs are seeking to integrate aged and disability services into their unique, holistic, human-services model (see Figure 1).

This integration aligns with the priority reforms under the *National Agreement on Closing the Gap*<sup>1</sup> (National Agreement), signed by all Australian Governments. The National Agreement prioritises building the community-controlled sector; partnerships and shared decision-making with our people; transforming government organisations to be culturally safe, free from racism, more accountable and engaged; and achieving Indigenous data sovereignty.

<sup>1</sup> Australian Governments, Coalition of Peaks (2020) *National Agreement on Closing the Gap*. NACCHO: Canberra. <https://www.closingthegap.gov.au/national-agreement>

## NACCHO response to the terms of reference

### 1. What potential benefits and risks can you see in pursuing greater alignment of regulation across the care and support sector?

Significant benefits for Aboriginal and Torres Strait Islander people can be gained from aligning aged, disability and veterans' care regulations. However, rather than maintaining separate, aligned regulations, a single set of regulations should be written for most regulatory functions across all three sectors. This set of consolidated regulations should align with the priorities of the *National Agreement for Closing the Gap* (National Agreement). Specifically, it should be written in partnership with Aboriginal and Torres Strait Islander organisations; support the growth of the community-controlled sector; and ensure government organisations are culturally safe and free from racism.

Creating a single set of consolidated regulations has the potential to provide benefits within the following regulatory areas:

#### ***Communicating information about regulations***

Building a community-controlled disability, aged and veterans' care sector is dependent on strong provision of information to both providers and clients.

For providers such as ACCHOs, ease of comprehension of regulatory obligations and how to fulfill them will be greatly assisted by having a single set of consolidated regulations for all services. The resulting simplification of regulatory requirements will influence the decision about whether to become a provider or not. This is particularly important in terms of the current complex information around registration, which is challenging for ACCHOs. If registration regulations are broadly the same, adding an additional service, such as aged care when NDIS services are already provided, becomes a familiar and easy process that can leverage information already provided.

Communications with clients and their families should also ensure consumer rights for all sectors are easily understood. Many clients utilise multiple services. Communicating a single set of entitlements for all sectors will avoid confusion and duplication. If the information is broadly similar, consistent communications can be provided across multiple platforms, including brochures and webpages, and through personalised services. Print information can be explained by one support worker, working across all three sectors. Entitlements in general, rather than for specific services, can be reviewed face-to-face with clients, who may not yet have been allocated to one service or another. One-on-one guidance allows for interactive questions and answers.

As set out in Priority 1 of the National Agreement, all communications should be co-designed with Aboriginal and Torres Strait Islander and other multilingual audiences to ensure they are culturally appropriate, relevant and accessible, strength based and meet the needs of communities nationally.

#### ***Entry regulations for providers***

Entry requirements for disability and aged care contain a significant amount of cross-over. This cross-over is not reflected in the current regulations. Unnecessarily separate and inconsistent entry regulations lead to confusion and duplication and make registration repetitive, resource intensive, time consuming and costly. NACCHO has received reports from ACCHOs already delivering NDIS services applying for aged-care entry. They have been required to tender extensive documentation that does not allow them to reference the frameworks previously used in their successful application for NDIS provision. ACCHOs are primarily providers of community controlled primary health care services, yet they are unable to use their clinical governance frameworks in registering for aged, disability or veterans' care. Duplication and lack of reference

to prior registration in other care services has led to registration taking up to nine months in one instance and being very time and resource heavy.

There is also a lack of recognition of different levels of care provided. For example, for aged care, the same registration requirements are needed for day services as for residential services. Unnecessarily complex, 'one size fits all' registration creates a barrier for ACCHOs wishing to register for lower-tier service provision.

Support for ACCHOs is provided by the NDIS Ready program, delivered by NACCHO, which aims to build the capacity of the sector to become an NDIS provider. An equivalent for aged care, however, is currently unavailable. A single set of regulations would allow the integration of NDIS Ready with a new, aged-care equivalent, which is yet to be developed and funded.

### ***Entry regulations for clients***

Aboriginal and Torres Strait Islander Elders are twice as likely to have a disability than the non-Indigenous population. NDIS regulations should avoid disabled Aboriginal and Torres Strait Islander clients joining a less appropriate service simply because its entry process is easier to navigate. A single set of entry regulations could potentially go some way to remedy this issue. In the first instance, many Aboriginal and Torres Strait Islander clients in need come forward for 'support', and not for clearly defined, discreet services. New consolidated entry regulations should assist the choice between one or other services, not hinder it.

NACCHO welcomes the Australian Government's commitment to developing Trusted Indigenous Facilitators and Assessors workforces, which will support Aboriginal and Torres Strait Islander clients enter and navigate the aged care system. Similar programs, the Aboriginal Disability Liaison Officer (ADLO) program and the Remote Community Connector (RCC) exist for NDIS. Where a single set of regulations governing the entry of new providers exist, these client pre-access support programs can be integrated. Not having to employ two separate specialised workforces will introduce significant efficiencies. This is particularly important given the current shortage of Aboriginal and Torres Strait Islander workers to provide culturally appropriate support to clients.

### ***Auditing regulations***

Using a single auditing system across aged and disability care would avoid running two sets of paperwork for the same client. One of our Member services, which currently provides both aged and disability services, reports that current auditing duplication is confusing and time wasting, with more paperwork meaning less client support.

Furthermore, they describe the auditing of aged care services as culturally inappropriate. There is a tendency for inflexibility in the system, with auditors failing to appreciate the cultural needs of Aboriginal and Torres Strait Islander clients. The issue is not entirely about standards, it's also about how the audit is conducted and how the standards are interpreted. The service provider has been questioned over Return to Country and Sorry Business activities, and asked to justify providing cultural support in general. In one instance, accommodation supporting a client's Return to Country was rejected because it was suggested the client was on holiday. The matter is ongoing, but the ACCHO has described the experience as 'damaging'. Ensuring all auditors receive cultural safety training is critical and aligns both with the recommendations of the Aged Care Royal Commission and Priority Reform 3 of the National Agreement.

One audit for all services would be ideal. Aged care standards, such as *Standard 3. Personal care and clinical care*<sup>2</sup>, should be the same as their equivalent in the NDIS. ACCHOs are having to develop their own systems to meet the separate governance requirements for both care

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<sup>2</sup> Aged Care Quality and Safety Commission (accessed 2021) *Quality Standards*, <https://www.agedcarequality.gov.au/providers/standards>

streams. Developing these systems is costly and time consuming and presents a barrier to uptake more broadly across the sector.

### ***Complaint regulations***

Many Aboriginal and Torres Strait Islander people are likely unaware that they can make a complaint and the mechanisms required assume digital literacy and access to technology. In the first instance, there is a need to better inform Aboriginal and Torres Strait Islander clients of their rights to access complaint mechanisms. Thereafter, there is a need for clear, culturally-safe information on how to access and navigate a combined complaint system for both disability, aged and veterans' care. Given Aboriginal and Torres Strait Islander people's experiences of racism, and widespread distrust of institutional care as a result of both personal and historical experiences, such information should address the fear of repercussions from making a complaint that Aboriginal and Torres Strait Islander people may have.

Complaint systems and guides should be compiled and written in consultation with Aboriginal and Torres Strait Islander people, as set out in Priority 1 of the National Agreement. They should seek to build trust between agencies and Aboriginal and Torres Strait Islander people, organisations and communities. Access to the systems and guides needs to offer face-to-face options, including advocacy services, to ensure the client's voice is heard and understood.

## **2. What are the fundamental aspects of regulation that should be consistent across the care and support sector?**

All aspects of regulation should be consistent across disability and aged care. The similarities between both extend from system entry and auditing of providers to client-entry information and their entitlements once they have entered aged, disability or veterans' care.

## **3. What differences need to be catered for in cross-sector regulation?**

Specific regulations that account for children within the NDIS system are required. Adults in both systems can give consent for nominees to take charge of their needs. In respect to children, no consent is required from parents or guardians.

## **4. What aspects of regulation in each sector are working well that you would like to see adopted more consistently across the sectors?**

### ***Code of conduct for aged care***

Priority 3 of the National Agreement stipulates the elimination of racism from government organisations. The NDIS Code of Conduct (Workers)<sup>3</sup> is a welcome reform. However, it should be updated to include principles around cultural safety and then be made available for use by aged care and veterans' services. The new code would have to contain only a small number of individual nuances for the respective services.

### ***NDIS Ready: Indigenous Business Support Funding***

Regulations should support sustained funding for genuine, long-term capacity building to ensure ACCHOs can deliver sustainable care services. The NDIS Ready program<sup>4</sup>, delivered by NACCHO, works well to support ACCHOs wishing to deliver NDIS services. Regulations should support

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<sup>3</sup> NDIS Quality and Safeguards Commission (accessed 2021) *NDIS Code of Conduct (Workers)*, <https://www.ndiscommission.gov.au/workers/ndis-code-conduct>

<sup>4</sup> National Aboriginal Controlled Community Health Organisation (accessed 2021) *NDIS Ready: Indigenous Business Support Funding*. <https://www.naccho.org.au/ndis-ready-indigenous-business-support-funding>

provision of an adapted version for aged and veterans' care. A key limitation of the NDIS Ready program is its short-term funding allocation.

**5. What challenges have you experienced or observed because of the different ways quality and safety is regulated in aged care, disability support and veterans' care?**

The provision of regulations that are inflexible and unable to accommodate cultural difference across aged, disability and veterans' care are a challenge for Aboriginal and Torres Strait Islander organisations and communities. The auditing process for aged care is a case in point (as outlined above). Flexibility should allow for important cultural needs, such as Return to Country programs, as well as for the needs of those in lower age brackets (Aboriginal and Torres Strait Islander people are eligible for aged care from 45 years) or with financial constraints.

Creating training for and employing, Aboriginal and Torres Strait Islander auditors would go some way towards introducing auditing that is flexible and cognisant of the cultural context of ACCHOs. All regulations should also overtly reference and make allowance for Return to Country, Sorry Business and a range of other cultural needs.

**6. What are some possible solutions that would address the challenges you identified with cross-sector regulation of care and supports?**

***Culturally safety should be incorporated into all regulations***

Regulations for both aged and disability services for Aboriginal and Torres Strait Islander people are often culturally unsafe, failing to anticipate the unique barriers that exist for Aboriginal and Torres Strait Islander people joining both systems.

The Royal Commission into Aged Care has recommended a raft of changes to aged care, including requiring providers and workers to be trained in cultural safety (Recommendation 48:1)<sup>5</sup>.

ACCHOs are best for the provision of services for Aboriginal and Torres Strait Islander peoples so the focus should be on increasing capacity of ACCHOs to provide culturally appropriate services, which is Recommendation 47b of the Royal Commission into Aged Care<sup>6</sup>. Where no ACCHO or other ACCO exists, however, mainstream providers must be culturally safe if providing services to Aboriginal and Torres Strait Islander peoples. Nationally coordinated by NACCHO, Affiliates and/or ACCHOs could be commissioned to develop and deliver place-based cultural safety training for local/mainstream providers where possible.

**7. For consumers, participants and carers, what, if any, changes would you like to see in how providers and workers are held to account across the sector?**

A cultural-safety standard should be developed to operate seamlessly across the three services, and in turn this code should be supported by an aligned cultural-safety accreditation process. A number of options for creation of the accreditation process exist:

- NACCHO could work with the NDIA and aged care to establish 'Aboriginal and Torres Strait Islander Cultural Safety Accreditation Standards'. This would be a competency-based framework and assessment process that would give a mainstream provider 'certification' as a culturally competent disability service provider. There are 11 Aboriginal and Torres Strait

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<sup>5</sup> Royal Commission into Aged Care Quality and Safety (accessed 2021) *Final Report: Care, Dignity and Respect* P241. [https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-1\\_0.pdf](https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-1_0.pdf)

<sup>6</sup> *ibid*, P242.

Community Controlled Registered Training Organisations (ACCRTOs) nationally who have the capacity and capability to design, develop and facilitate this work.

- As part of meeting the 'Aboriginal and Torres Strait Islander Cultural Safety Accreditation Standards', or independent of them, NACCHO could facilitate consultation across the sector on the design of culturally responsive and accessible services for non-Indigenous disability- and aged-care providers.