

Aligning regulation across aged care, disability support and veterans' care

LASA submission

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Tim Hicks, General Manager, Policy, Advocacy and Advisory
Marlene Eggert, Senior Policy Advisor

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About LASA

Who We Are

LASA is the national association for all providers of age services across residential care, home care and retirement living/seniors housing.

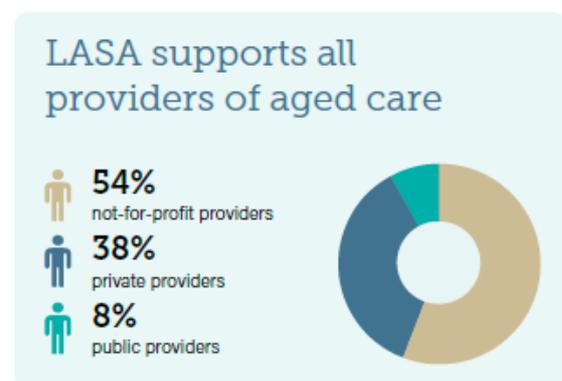
Our Purpose

Our purpose is to enable high performing, respected and sustainable age services that support older Australians to age well by providing care, support and accommodation with quality, safety and compassion—always.

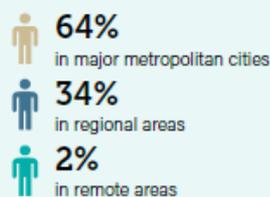
Our Members

We represent providers of age services of all types and sizes located across Australia's metropolitan, regional and remote areas. We are dedicated to meeting the needs of LASA Members by providing

- a strong and influential voice leading the agenda on issues of importance;
- access to valuable and value-adding information, advice, services and support; and
- value for money by delivering our services and support efficiently and effectively.



Our Members are located across Australia



Our Affiliates

LASA Affiliates are proud supporters of the critical role played by the age services industry in caring for older Australians. Their value-adding products and services help age services providers apply innovative solutions that improve the provision of efficient and quality care.

Our Strategic Objectives

1. Be the credible and authoritative voice of aged care representing the views of our Members for the benefit of older Australians.
2. Build sector capability and sustainability by delivering valued services and support to Members
3. Lead continuous improvement by promoting and celebrating excellence and innovation in age services
4. Deliver value for money for Members and Affiliates.
5. Be a high performing, respected and sustainable association that cares for our purpose, our Members and our people.

Commit to a unified approach

Government should commit to the end goal of unified social care regulatory framework.

Commit to avoiding further changes that will then need to be re-aligned

In doing so, Government should also commit to NOT introducing any significant regulatory change in aged care unless it intends these rules to eventually apply to all social care sectors.

- For example, Government should not introduce changes to aged care regulation if it would not be appropriate to apply these changes to disability regulation.
- The aged care sector cannot be subjected to the wave of regulatory changes proposed in response to the Royal Commission and then face another wave of regulatory changes aimed at achieving alignment.
- We note for example, that the current aged care standards only came into effect in 2018 and they are already subject to a major review in response to the Royal Commission. It would be inconceivable to then have another major review of the aged care standards to achieve alignment with the disability standards.
- Aged care staff and leaders are already fatigued and overwhelmed by years of COVID-19, natural disasters, cost-control pressures, staffing challenges and rapid regulatory change. This has a very real effect on quality of care, with very high turnover in senior leadership and close to 40% turnover in registered nurses in residential care.

Ensure cross sector consultation on major changes

Similarly, Government should ensure there is cross sector consultation on any major change in regulation that is being considered. For example, the disability sector needs to be involved in the review of the aged care standards and the work currently underway on clinical standards for aged care.

Ensure unified oversight of social care regulatory policy

The single biggest practical step towards achieving alignment of social care regulatory regimes would be to expand the interdepartmental group that is responsible for the alignment project so that it has overall responsibility for regulatory policy across all three programs. Responsibility for overseeing this program of work should also be given to a single minister.

- If there continue to be separate ministers and officials developing policy and making decisions about regulation in different areas of care, progress towards alignment is likely to be piecemeal at best.

Ensure there is a clear framework for accounting for differences in program design

A unified approach to social care regulation needs a framework for how regulatory obligations should take into account differences in program design, funding, client needs and the type of services being delivered.

- The challenge of joint regulation with different funding already exists within the aged care portfolio where home care, CHSP, residential care and other programs have very different designs and client cohorts and are subject to regulatory obligations that are sometimes the same and sometimes differ.
- For example, home care providers are often concerned that policy is written for residential care and then applied to home care as an afterthought. Home care providers are also concerned that auditors used to assessing residential care make incorrect assumptions when assessing home care.
- These issues can be addressed by having a clear policy for identifying relevant differences, and ensuring that this context is accounted for in the design and enforcement of the regulations.

Comments on changes that are already occurring

We note that alignment is already occurring. Key observations in relation to these changes include:

- Sharing of information between regulators – we support these changes
- A code of conduct and banning orders – here it should be noted that we have concerns with the due process, and proportionality of the proposed banning orders
- Staff screening arrangements – this illustrates one of the challenges relating to alignment. The screening rules are set by an intergovernmental process involving disability ministers but there is no involvement of aged care ministers in this process. The aged care sector needs to have a seat at the table in setting screening rules.
- Restrictive practices – here there is a need for a broader review, particularly in relation to consent. We also note that under the changes people in aged care are still not receiving the same right to have a funded behaviour support specialist develop a funded behaviour support plan. While the aged care nurses currently developing these plans may often have the same level of experience as the specialists used in disability services, they are not able to access additional funding to implement a plan based on the reasonable and necessary supports that a person needs. Nor is there the safety-net of external authorisation of these plans.

Immediate priorities for alignment

Further immediate priorities for alignment should be:

- A process for mutual recognition of accreditation and assessment – whereby compliance with the standards of aged care OR disability care should be taken to evidence compliance with the other.
 - If there are specific concerns about differences that would prevent mutual recognition these should be identified and addressed as priorities for alignment.

- A report once policy – so that information reported by providers or consumers to one of the social care regulators is shared with the other regulators, and information for very similar purposes does need to be reported twice. This includes registers for:
 - vaccination status
 - complaints
 - incident reporting
- A review of the costs and benefits of security of tenure rules, noting that these apply in aged care but not in disability
- A requirement for NDIS participants to share their NDIS plan with their residential aged care providers given the holistic nature of the residential care providers responsibilities. If external providers are involved, this results for providers in a lack of clarity about who is responsible for which aspect of the participant’s care.

Medium-term priorities for alignment

Medium-term priorities should include:

- The development of a framework for how regulatory obligations should account for differences in program design, including listing the elements of program design that may be relevant to regulatory rules and enforcement.
- Involvement of all sectors in the current review of the aged care standards, with a view to this being a more general standards review process.
- Involvement of all sectors in the review of the aged care act, with a view to having single legislative basis for social care regulation – noting that funding may be set out in separate legislation
- A move to a unified regulator as part of the review of the aged care regulator recommended by the Royal Commission, and an associated review of assessment methodologies, with a view to moving aged care into alignment with the current NDIS approach.
 - We note that a unified regulator with reasonably consistent regulation will have more resources to develop guidance and undertake educational activities.
 - This should also involve unification of enforcement powers and penalties.
- Involvement of disability sector in star ratings and quality indicators discussions in aged care (acknowledging that many of the indicators relevant to older client groups, or service models where the provider has holistic responsibility for care will not be relevant to disability services providers)
- Harmonisation of industrial relations regulation, awards and pay schedules.
- Alignment of broader provider obligations, including financial reporting obligations and governance obligations, as long as those obligations are not linked to specific program details such as prudential reporting obligations for residential aged care providers with government guaranteed lump sum accommodation payments.

A Strong voice and a helping hand

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