

DECEMBER 2020



# VCOSS response to the Regulatory Impact Statement for Worker Screening Regulations 2020

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## Overview

The Victorian Council of Social Service (VCOSS) welcomes the opportunity to provide feedback about the proposed *Worker Screening Regulations 2020* to support the implementation of the *Worker Screening Bill 2020*.

VCOSS is the peak body for social and community services in Victoria. As part of our sector leadership, VCOSS advocates for change to improve the lives of people with disability. VCOSS supports over 40 Victorian disability advocacy organisations to undertake collaborative systemic advocacy under the banner of the 'Empowered Lives' campaign.

Ensuring children and people with disability are protected from harm is paramount. Governments and organisations have a responsibility to protect and uphold the safety, wellbeing and rights of children, young people and people with disability.

Worker screening initiatives act as a protective and preventative mechanism, by prohibiting or deterring people from working in roles where they present an unacceptable risk of harm.

The introduction of a nationally consistent approach to National Disability Insurance Scheme (NDIS) worker screening, and the establishment of a shared framework for conducting checks on both NDIS workers and people who work with children, are welcome initiatives. However, VCOSS is disappointed to see the regulatory impact statement (RIS) adopts a narrow definition of the problem that focuses primarily on financial impacts, options to negate costs to government, and meeting the minimum requirements of the national policy for NDIS worker screening.

To ensure the proposed regulations serve to enact and strengthen Victoria's zero tolerance approach to abuse of people with disability, we recommend the Department of Justice and Community Safety (DJCS):

- conducts further analysis to present a fairer fee structure for volunteers who support people with disability
- undertakes further engagement, consultation and communication with impacted stakeholders, in light of awareness and engagement challenges during COVID-19.

## Review fee fairness and coverage

### RECOMMENDATION

- Further examine and clarify screening requirements for volunteers who support people with disability, within NDIS providers or through ILC-funded programs.
- Model a fee structure that ensures the costs of volunteer checks for supporting children *and* people with disability are offset by the fees collected for paid staff checks.

Around one in 10 Victorians with disability are supported by the NDIS.<sup>1</sup> People with disability who are not eligible for the NDIS may access a range of community services, delivered by paid staff and volunteers from large community services organisations through to small, local volunteer-led groups.

Volunteer-involving programs complement the support provided by NDIS-funded services. They are especially valued by people with disability who are not eligible for an individual NDIS funding package.

Based on the definitions in the Intergovernmental Agreement for nationally consistent worker screening for the NDIS, it is our understanding workers in paid and unpaid roles who support people with disability through a registered NDIS provider would be required to undergo an NDIS check. The Intergovernmental Agreement also states Commonwealth employees, NDIA-contracted organisations, state-funded organisations and services, and advocacy services may also be required to comply with the national policy on NDIS worker screening through funding agreements.

These definitions present a compliance challenge for volunteer-involving organisations who:

- are registered NDIS providers, but provide additional or complementary support for people with disability that is not funded by the NDIS (for example, volunteer companionship programs, community transport)
- are not registered NDIS providers, but work extensively with NDIS participants (for example, volunteer citizen advocacy for people with disability, community visitors)
- deliver volunteer-driven programs for people with disability with the support of multiple funding sources.

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<sup>1</sup> NDIA, *Quarterly Performance Dashboard*, 30 September 2020, p.3; ABS, *Disability, Ageing and Carers, Australia: Summary of Findings*, 2018.

It is important that the regulations to promote safety are fit-for-purpose for volunteer-involving programs given that:

- Volunteers contribute more than \$58m worth of benefits to Victorians<sup>2</sup>, including vital and valued support for Victorians with disability
- Volunteers support people with disability to access information, socialise, advocate for their rights, participate in the community and build lasting, trusted connections and friendships – often in ways that paid staff cannot
- Delivering volunteer-involving programs is not free – organisations incur initial costs for recruitment, screening and induction, and ongoing costs for training, mentoring and supervision, and volunteers themselves are also often out-of-pocket<sup>3</sup>
- The transition to the NDIS and the Information Linkages and Capacity-Building (ILC) grant funding has adversely impacted the provision of volunteer-involving programs for Victorians with disability, including changes to, and loss of, block funding<sup>4</sup>.

We note that the RIS proposes that no volunteer checks be available for volunteers who support NDIS participants; these checks will incur the same fee as an employee check.<sup>5</sup>

A fee structure that places additional cost imposes on volunteers and volunteer programs that support people with disability may discourage prospective volunteers and threaten the viability of already-stretched community programs.

We recommend DJCS conducts further analysis to explore the impact of the regulations on volunteers who support people with disability in a range of contexts, and models a fee structure that does not discourage volunteers from supporting Victorians with disability.

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<sup>2</sup> Volunteering Victoria, *State of Volunteering Report*, 2020.

<sup>3</sup> Ibid.

<sup>4</sup> K McVilly, G Dodevska and D Newton, *Value Added: Volunteer-Supported Services and the Challenge of the NDIS*, University of Melbourne and Interchange Inc., 2019.

<sup>5</sup> DJCS, *Regulatory Impact Statement: Worker Screening Regulations 2020*, November 2020, p.17.

## Engage, consult and communicate with all stakeholders

### RECOMMENDATIONS

- Develop a clear, timely and realistic implementation plan to engage all stakeholders in the introduction of NDIS checks.
- Clarify and communicate the roles and responsibilities of different Victorian and Commonwealth safeguarding and screening mechanisms.
- Develop tailored and accessible communications about NDIS checks for people with disability, workers, volunteers and organisations.

The introduction of the NDIS check from February 2021 comes on the back of, and in the midst of, a challenging time for people with disability, carers and families, disability workers, service providers, volunteers and volunteer-involving organisations.

The implementation of nationally consistent screening checks will have varying impacts for different organisations and services. For example, some organisations who provide NDIS-funded services, particularly large organisations that provide a wide range of community services for children and families, may already have policies in place requiring all workers to have a WWC

check, which will extend their time to transition their workforce to the NDIS check. Whereas other support providers without similar organisation-level policy settings, who employ workers and volunteers who do not have or require a WWC check, will have six months from February 2021 to ensure their workforce has NDIS checks.

The diversity and complexity of the community sector in implementing these changes cannot, and should not be, underestimated. While we wholeheartedly welcome the additional level of screening and protection for NDIS participants that will be made available under the *Worker Screening Bill 2020*, we hold concerns about the implementation of the proposed regulations due to:

- **Limited communication and engagement** with organisations, workers, volunteers, NDIS participants and their support network about the introduction of NDIS checks
- The **short timeframes** for all parties to provide feedback to the RIS process, and to prepare for implementation from February 2021
- A **lack of clarity** about how the new NDIS checks will intersect or overlap with other state-based safeguarding mechanisms, including:
  - the ongoing role of the Disability Worker Exclusion Scheme

- the Victorian Disability Worker Commission, and
- the Disability Worker Regulation Scheme and the launch of worker registration from July 2021
- Potential **coverage gaps and financial impacts** for volunteers and volunteer-involving organisations who support people with disability (as outlined earlier)
- The **administrative and resourcing impacts** for organisations to communicate with staff, review and assess workforce impacts and plan for transition; costs not considered in the RIS nor remunerated by NDIS funding
- The dual impacts of **COVID-19 fatigue and reform fatigue** which may increase difficulty in implementing change.

Without clear, accessible and timely guidance and advice, paid and volunteer workforces and prospective workers will also face difficulties in:

- preparing for the implementation of NDIS checks
- understanding the roles of different safeguarding mechanisms and bodies
- ensuring they are compliant with all required checks.

NDIS participants, particularly those who self-manage their plan or engage a plan manager, also need to know more about NDIS checks, how they will work and how they will be able to access the NDIS Worker Screening Database.

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This submission was prepared by Rhiannon Wapling and authorised by VCOSS CEO Emma King. For enquiries please contact Deborah Fewster at [deborah.fewster@vcooss.org.au](mailto:deborah.fewster@vcooss.org.au)

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