



Submission on the Victorian Disability Worker Registration Scheme:

**Proposed registration standards and regulations for
Victoria's disability workforce**

February 2020

Mental Health Victoria

Mental Health Victoria (MHV) is the peak body for organisations that work within or intersect with the mental health system in Victoria. We advocate for reforming the mental health system to ensure that people living with mental illness and psychosocial disability can access safe and quality care and support when they need it.

Reflecting the composition of the mental health system itself, our members come from a mix of clinical and non-clinical, acute and community-based, and public and private organisations. In addition, we work closely with stakeholders from a broad range of intersecting systems including aged care, disability, housing, public safety and legal services.

Introduction

MHV commends the Victorian Government establishing the Disability Worker Commission to further “protect vulnerable people from harm and neglect by stopping people who pose a serious risk of harm from providing disability services”¹. We would like to thank the Government for this opportunity to give feedback on this important work.

The work of the Victorian Disability Worker Commission (the Commission), including the Victorian Disability Worker Registration Scheme (the Scheme) and regulations for the Victorian Disability Workforce (the Regulations), will play an important role holding to account those who cause harm to people with disability.

Although the administration of justice is essential to address the relatively small number of cases where harm is caused to people with a disability, this aspect of the Commission's role must run in parallel to the provision of opportunities and support to the disability workforce. Further and more substantial funding is required to meet the Victorian Government's complimentary ambitions to²:

- Build a strong and skilled disability workforce
- Ensure high quality service provision
- Provide more jobs, professional development and career progression for workers
- Provide innovative, flexible and personalised disability services

There is an opportunity for the Commission incentivise workers to register for the Scheme, building the capacity of the disability workforce and ensuring that cases of harm or abuse are increasingly rare.

Currently, the NDIS does not sufficiently support the psychosocial disability workforce to do this. There is a lack of permanent, stable employment and the rates of pay are relatively low. There are very few opportunities for workers to build the knowledge and skills required to improve the safety and quality of service delivery. It is therefore difficult for people with a psychosocial disability to find workers with the skills and attributes they want to deliver trusted and tailored services.

¹ Victorian Government 2020, 'Victorian Disability Worker Regulation Scheme', accessed online: <https://engage.vic.gov.au/victorian-disability-worker-regulation-scheme>

² Victorian Government 2020, 'Supporting the disability workforce in the NDIS', accessed online: <https://www.vic.gov.au/supporting-disability-workers-NDIS>

In the face of the restricted NDIS environment, the psychosocial disability sector needs to grow to meet demand. According to the Federal Government, the disability sector needs to attract another 90,000 full-time employees in order to meet the increased demand generated by the NDIS.³ 71 per cent of these workers are expected to be support workers.⁴ More is needed to ensure that Victoria can attract and retain workers who are motivated to improve their ability to provide safe, quality services.

Given the limitations the workforce is currently facing under the NDIS, service providers and the workforce need to be sufficiently supported to achieve the objectives set out by the Commission. In this submission we make recommendations to the proposed Scheme and Regulations and we suggest that they are placed within a context of:

- A partnership with people with a disability, their carers and families, workers and service providers, including co-design and co-production
- A value proposition that workers subscribe to when they register for the Scheme
- Incentives to access the Scheme that build the capacity of the workforce

Code of Conduct for unregistered disability workers

Adoption of the NDIS Code of Conduct

Recommendation: Adopt exactly the NDIS Code of Conduct as the code that Victorian unregistered disability workers must comply with.

MHV supports the adoption of the NDIS Code of Conduct. We agree that adopting the NDIS Code of Conduct would ensure no reduction or degradation in protections for Victorians.

Maximising consistency between federal and state regulations is likely to be a more effective and efficient than introducing a new code. We agree the NDIS Code is sufficiently 'rigorous and robust' and adopting a different code is likely to be more costly and confusing for participants and the workforce.

Communication and Implementation of the Code

Recommendation: Work in partnership with people with a psychosocial disability, families, carers, workers and providers in communicating and implementing the Code of Conduct, including diverse communities.

The participation and engagement of people with psychosocial disabilities and their families, carers, workers and service providers is critical to the effectiveness of the Code. Working in partnership to design a communication strategy will ensure the people who can make the biggest difference are engaged in preventing harm against people with a disability. Psychosocial disability service providers and workforce are particularly important partners in the communication and

³ 2019, 'Growing the NDIS Market: Supporting the market to deliver innovative, people-centred services so that participants can achieve their goals.

⁴ Ibid.

implementation of the Code because they are responsible for translating the Code into good practice and therefore better outcomes for the people they support.

The Government should work in partnership with these stakeholders, including in diverse communities, to implement the strategy.

Recommendation: Provide ongoing information and training to people with a psychosocial disability and their families and carers, including in diverse communities, about the Code and the complaints process.

Apart from the person themselves, it is the people who immediately surround the person with a disability who are well placed to safeguard their rights. The effectiveness of the Code and the complaints process are predicated on these communities' understanding of the rights of people with a disability.

General and targeted education campaigns are required to ensure that information is accessible and easy to understand. These campaigns should consider the educational needs of the diversity of groups and communities that make up the disability sector in Victoria. They should be delivered in partnership with people with a disability via modalities and technologies that are well suited to the diversity of audiences that need to be targeted.

Recommendation: Guarantee funding for individual, group, systemic and legal advocacy services so that these services are accessible for vulnerable individuals and groups who require them.

'No wrong door' and information sharing policies

Recommendation: Ensure transparency in relation to the 'no wrong door' policies and procedures, including responsibilities and acceptable timeframes. Communicate these to people with a disability and their carers and families.

We support the proposal for the Commission to adopt a 'no wrong door' policy to ensure that complaints are managed by the most appropriate regulator. People can easily fall between the gaps of government departments, particularly those who are vulnerable. The onus must be on person receiving the complaint to ensure that the complaint is progressed appropriately and within reasonable/agreed timeframes. More details about the accountability mechanisms of this process are required.

Whistleblowing

Recommendation: Consider additional Scheme regulations or alternative measures to protect whistleblowers.

MHV supports the provisions under the Regulations that enable a worker to report a supervisor or manager where they may have been directed by them to do something that may constitute a breach of the Code of Conduct.

The Commission should also provide clarity about what measures are in place (or should be in place) to protect employees who report improper conduct by colleagues, supervisors, or service providers. If necessary, these need to be established, and must be adequately communicated to workers to ensure their rights are protection in such cases.

The Disability Worker Regulation: Proposed standards (the Standards)

Due to the voluntary nature of the Scheme, the Government must reduce barriers to the Scheme's utilisation and further incentivise its uptake to ensure its objectives are achieved.

Recommendation: Incentivise the uptake of the Scheme by offering:

- A value proposition to workers who register for the Scheme
- Opportunities for workers to meaningfully participate and engage with the Scheme
- Access to quality information that generates demand for services
- Benefits for registering for the Scheme that build the capacity of service providers and the workforce

MHV identifies the following potential barriers to stakeholder's uptake of the Scheme and the opportunities available to the Commission to address these:

<p>Scheme is meaningless to workers and people with a disability in the context of service provision</p>	<p>Ask workers to subscribe to a value proposition when they register with the Scheme that relates to the provision of safe, quality disability service.</p> <p>Promote these values through all the work of the Commission and through various channels within the sector, such as:</p> <ul style="list-style-type: none"> - Working with employers to recruit to those values - Working with training organisations to promote those values - Recognition of workers skills and achievements
<p>Lack of trust in the Scheme</p>	<p>Opportunities for meaningful participation and engagement with the Scheme, addressing barriers to communication, diversity and cultural differences.</p>
<p>Lack of useful information or poor communication of information</p>	<p>Provide quality information to consumers, carers and families, service providers and workers that is:</p> <ul style="list-style-type: none"> - Desirable/useful - Publicly available - Accessible - Correct/Up to date

	To incentivise workers to register, this information needs to generate demand for safe and quality services.
Expensive and cumbersome processes	<p>Offer value for money. Where there are registration costs or expenses, also provide:</p> <ul style="list-style-type: none"> - free or subsidised capacity building supports like education and training, professional development, access to professional networks etc. <p>Work with service providers to target capacity building to fill gaps in the market to meet the needs of consumers.</p>

Capitalising on these opportunities and introducing further incentives for workers to register for the Scheme will:

- Ensure better support and protection from harm for people with a psychosocial disability
- Provide reassurance for carers and families about the safety of their loved one and improve their own outcomes, including employment
- Improve recovery outcomes for people with psychosocial disability, including employment
- Improve the reputation of the disability sector as a career of choice
- Improve the retention of workers, their level of skill and experience and ability to identify and manage risks
- Bring economic benefits to Victoria ⁵⁶

Investment in the disability workforce is of benefit to people with psychosocial disabilities, their families, carers, workers, service providers and the people of Victoria more generally.

Continuing professional development

Although the Board will not set a registration standard about continuing professional development for the first registration period, we consider the recognition of workers' professional development as an important aspect of building a reliable workforce that can deliver safe and quality services to people with psychosocial disabilities. In

⁵ Under the NDIS alone tens of thousands of people with disability will be supported find work and approximately 34,000 carers will to return to the workforce as a result.

⁶ National Disability Services, 2016, 'Economic Benefits of the NDIS', accessed online: <https://www.nds.org.au/policy/national-disability-services-report-projects-economic-benefits-of-the-ndis>

particular, we support the Board collecting information about the types of amount of professional development workers undertake.

We would encourage the Board to define professional development broadly to include, for example micro credentials, peer to peer learning, communities of practice, online and mobile learning and other non-traditional forms of learning and professional development. These are particularly important in the current NDIS environment where time and resources for workers to develop their skills are severely limited.

Language skills

Recommendation: Engage with CALD communities to ensure that people with a disability, carers and families are able to access workers who have the appropriate skills and attributes to meet their cultural, ethnic and linguistic needs.

People from a diversity of backgrounds should be attracted to a career in disability services. Cultural diversity brings value to the sector and it is incredibly important that people with a disability have the choice to employ workers who come from their own cultural and linguistic background.

Under the NDIS the provision of services to people from CALD backgrounds is a thin market. People with a disability from CALD backgrounds have difficulty engaging with and accessing culturally and linguistically appropriate services, leading to underutilisation and disadvantage.

People from CALD backgrounds have a need for information about workers who speak their language and come from their same cultural and ethnic background. For people with a disability from CALD backgrounds, the Scheme has the potential to improve choice and access to a workforce with some of the skills and attributes to better support their needs.

This Scheme must effectively engage with CALD communities to capitalise on the benefits of providing useful and accessible information that enables people with a psychosocial disability, their carers and families from CALD backgrounds to find a suitable worker. However, there is a broader need to ensure the new and existing CALD psychosocial disability workforce have the opportunities and resources to meet the demand for a suitably skilled and qualified workforce.

MHV does not believe that it is feasible for workers to provide evidence of their English language competency. Rather, self-declaration of language skills, cultural and ethnic background should be framed as valuable skills or attributes for the delivery of tailored services.

It is not clear from the proposed standards what level of English will be considered adequate. There is the potential for unintended consequences if the level is generally considered by communities as a deterrent from registering. This would further disadvantage people with a disability from CALD backgrounds.

Physical and mental health

Recommendation: Review the proposed Standard requiring self-disclosure of mental and physical health to consider the potential impact on people with a lived experience of mental illness, including peer workers.

People with a lived experience of mental illness, including peer workers, play a highly valued role in the delivery of services to people with a psychosocial disability.

"People with lived experience of mental illness hold expertise that is incredibly valuable. Employing people with lived experience in peer worker roles to support others brings a tremendous range of benefits. Peer workers know what it is like to experience mental illness and can share experiences of personal recovery with consumers. People who are living well with mental illness represent hope that is often missing in people's lives."⁷

As it is currently framed, the proposed Standard related to self-disclosure of mental and physical health has the potential to deter people with a lived experience from registering, compounding the social stigma of mental illness in the community.

Stigma against people with a lived experience of mental illness can be a significant barrier seeking and maintaining work or progressing in the workplace⁸. Significant progress has been made across governments, businesses and the broader community to destigmatize mental illness in the workplace, including public awareness campaigns, education strategies, cultural change strategies and inclusion programs.

The potential risk of a mental or physical health condition on the delivery of services is context specific. Mental and physical health are variable and risk can depend on the context in which the service is being delivered and to whom. The potential for risk probably relates more to a worker's self-awareness, judgment and their engagement in supervision or other workplace arrangements, more than whether or they have a registered condition. We believe the Scheme is not the best place to manage risks associated with a workers mental and physical health.

To ensure people with a lived experience of mental illness or psychosocial disability are not deterred from registering or pursuing a career in disability services, the scope and purpose of this standard should be reviewed. The Standard should be framed and communicated in a way that draws on the strengths of the lived experience workforce to delivering tailored services to people with a psychosocial disability. Where appropriate the lived experience of mental illness or psychosocial disability could be linked to Scopes of Practice, such as mental health peer work.



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⁷ Mental Health Commission of New South Wales, 2014, 'Living Well: A strategic plan for mental health in New South Wales 2014-2024' accessed online:

<https://nswmentalhealthcommission.com.au/sites/default/files/Strategic%20Plan%20-%20Section%208a.pdf>

⁸ Queensland Mental Health Commission, 2018, 'Mental Health and Stigma in the Workplace – final report', accessed online:

https://www.qmhc.qld.gov.au/sites/default/files/mental_health_stigma_reduction_in_the_workplace_e_y_sweeney_june_2018.pdf