

The Aged Care Workforce Remote Accord

Submission on the Aged Care Bill 2024

The Aged Care Workforce Remote Accord makes this submission for consideration to the Standing Committee on Community Affairs Legislation Committee Inquiry into the provisions of the Aged Care Bill. This submission seeks to raise awareness of the impacts the new Aged Care Bill (the Bill) will have on services and communities in remote areas of Australia, and particularly to draw attention to the importance of discretion regarding worker screenings remaining with service providers.

The Aged Care Workforce Remote Accord

The Aged Care Workforce Remote Accord (Remote Accord) is a group of service providers and industry experts delivering aged care services in regional, rural and remote Australia.

The Remote Accord was formed based on the belief that every community—including those in remote and very remote areas of Australia—has an equal right to accessible, high quality aged care services. The Remote Accord saw its genesis in the ‘A Matter of Care: Australia’s Aged Care Workforce Strategy’ report. Strategic Action 11 recommended that the Government and industry support the establishment of a Remote Accord to provide a voice on behalf of providers in remote and very remote areas.

Key Recommendations:

- In order to ensure the continuation and ongoing improvement of culturally safe care, as well as the suitability and sustainability of workforces in remote areas, it is vital that discretion and risk mitigation with regard to worker screenings in remote areas remains with remote service providers
- The Bill presents an opportunity to formalise and strengthen service providers' discretion in worker screening by establishing a nationally consistent framework that centralises risk mitigation strategies, supports culturally appropriate decision-making, and provides tailored guidance for remote communities

The context of the new Bill

The Remote Accord understands that the Bill makes several provisions about worker screening. We acknowledge that the Bill allows for the establishment of a nationally consistent worker screening scheme for aged care workers. We also acknowledge that Clause 380 provides for recognition of NDIS worker screening

clearance decisions for the purposes of aged care worker screening decisions, in an effort to standardise worker screening processes. Further, it is our understanding that worker screening requirements will be prescribed by the accompanying Rules. We understand that, as per Clause 14, these provisions are made in an effort to safeguard against the engagement of unsuitable people who may present a risk to the physical or mental health of individuals accessing funded aged care services.

It is our firm belief that where background checks do raise issues which may be of concern, the best-placed entity to make a decision with regard to the potential-employee's suitability is the employer. Ensuring that discretionary decision making remains with remote service providers is vital for both the cultural safety of those accessing services in remote Australia, and for the ongoing sustainability and suitability of workforces in remote Australia.

Cultural safety and worker screening in remote Australia

In the context of the Bill, it is critical that remote and very remote aged care providers retain discretion when it comes to background checks and risk mitigation. This is especially important for First Nations people, who are often best positioned to provide culturally safe care to other First Nations people.

We note that it is a provision of the Bill that “...the Commonwealth aged care system offers accessible, culturally safe, culturally appropriate, trauma-aware and healing-informed funded aged care services, if required by an individual and based on the needs of the individual, regardless of the individual's location, background and life experiences.” The provision of aged care in remote areas is deeply intertwined with cultural sensitivities, community trust, and local knowledge. Removing the capacity of service providers to exercise discretion regarding worker screenings could prevent the most appropriate individuals from being engaged in caregiving roles, thus compromising the cultural safety of care for elders in these communities.

“We work hard to employ local town camp community members as this is both empowering for the community members and beneficial for service users. The ultimate goal here is for Aboriginal people to be skilled and equipped to look after Aboriginal people. This does come with challenges, such as language barriers, literacy and numeracy issues, and the high likelihood of potential employees having previous brushes with the law. Currently, we have a strong and well-informed human resources team with strong ties to the local community who can make informed decisions about the appropriateness of different community members to work in aged care. Having this discretion removed would be incredibly detrimental for our organisation and its long-term goals.”

— from an ACCHO operating multiple services in remote Australia

We note that one of the complexities in delivering culturally appropriate care in remote areas is that many First Nations people have criminal records stemming from systemic issues, including over-policing and common occurrences of offences such as driving-related charges or historic instances of domestic violence,

which are often tied to broader social issues. While these matters may appear on background checks, they are frequently unrelated to an individual's capacity to provide compassionate, effective, and culturally safe care and may have happened many years previously. Removing discretion from service providers regarding worker screening risks unfairly barring otherwise qualified and culturally knowledgeable carers who have lived in and understand the needs of their community.

“People and Culture receives Disclosable Court Outcomes (DCO) on new applicants and renewal police checks often – averaging around one or two per week. The vast majority of these are minor offences and traffic related which I will tend to approve without discussing further – unless of course there is a need. For example, significant and recent drink driving convictions for a Home Care applicant required to drive.

For those with substantial convictions, I complete a DCO assessment form. Since the finalisation of our Compliance Policy, I have completed five formal assessments requiring discussions with the applicant/employee. Only one had their offer withdrawn.”

– from a large service provider operating in remote communities

Furthermore, remote communities often possess a deep understanding of the histories of their members. This local knowledge allows remote service providers to assess the suitability of individuals to provide care based on lived experience rather than solely relying on criminal records. Removing the discretion of service providers to consider these factors risks alienating First Nations workers from engaging in aged care roles, and in turn, diminishes the ability to deliver care that is not only effective but culturally aligned and healing informed. Maintaining flexibility in background checks is crucial for empowering communities to deliver aged care that respects cultural context, builds trust, and provides the most meaningful care for Elders.

The logistics of worker screening and workforce shortages in remote Australia

Workforce shortages in remote and very remote Australia are a well-documented and entrenched issue, particularly in the aged care sector. Service providers face ongoing challenges in attracting and recruiting a suitable workforce to meet the growing needs of remote communities. Removing discretion regarding worker screening processes from within community risks further exacerbating this problem, particularly when these processes fail to account for the logistical challenges of recruitment and worker screening in remote Australia.

By restricting employer discretion in worker screening and risk mitigation, the Bill could inadvertently disincentivise the engagement of local, culturally appropriate workforces, deepening the workforce gap in an already stretched sector.

“I understand the importance of discretionary screening model firsthand, particularly in smaller community-run services. The discretionary model offers a valuable opportunity for local communities and service providers to expedite the recruitment process while also identifying and mitigating risks as necessary through informal processes and screening that might include speaking to Elders in the community and family members. This approach fosters a solution-focused response, rather than a mere checkbox exercise, which is especially beneficial for small, isolated service providers struggling to attract suitable workforce.”

– *from a consultant specialising in working with standalone remote services*

Service providers in remote Australia already struggle to overcome the logistical challenges of worker screening. Community members in remote areas often have limited access to the internet, services, and resources required to complete extensive background checks, making it burdensome for potential workers to meet the compliance requirements. Some Community members may not have identity documents. This burden has already grown as screening is standardised with NDIS processes:

“We face several logistical challenges in completing these checks:

Other employees or the Residential Manager must assist a majority of new locally-based employees with the online application due to the lack of computer skills. This also means that on some occasions an employee has not yet applied for an NDIS check before they begin on site due to the complexity of the remote location. We do ask employees at these sites to undertake a police check (via CrimCheck) but they still need assistance on site to do this.

In one remote location, a four-hour drive one way is required to visit a DOT or post office in order for an employee to have their identification documents sighted and recorded. The Residential Manager has resorted to driving out a group of employees and returning them (fully paid) to achieve the application.

Some locally based employees do not have drivers licences (or other forms of ID) that can also add complexity to the NDIS application process in the ability to drive there and in providing the required identification for an NDIS check.

In this location it costs a person \$145 to apply for a NDIS check, which we refund after an employee has applied. In remote areas we have been told that for care and domestic workers, they often need to be given \$145 so they can apply, rather than being reimbursed due to low socioeconomic status of some people within the local area.”

– *from a Service Manager working at a remote service*

The added complexities of worker screenings in remote areas drives candidates to seek employment elsewhere, in roles where the screening process is less intimidating, timelier, and more accommodating to the realities of remote life. As a result, aged care services in remote areas lose access to a workforce that is uniquely positioned to deliver culturally safe and trauma-aware care. For service providers, this increases workforce costs, which creates a further inefficiency in the system. For remote communities, these candidates often represent the best possible option for delivering care that respects and understands the lived experiences of their Elders. Removing discretion from within trusted community-based entities and moving discretionary decisions to an external Commonwealth entity risks further eroding trust in the system.

The need to avoid discouraging local workforces cannot be overstated. It is important to note that even the *perception* of being ineligible to work in aged care can harm engagement of local workforces in remote communities. Word of mouth and employer-referrals are a vital part of the remote employment ecosystem; if the perception spreads that there is no room for discretion for individuals who know their background checks may raise concerns, potential employees are likely to self-select out of the aged care workforce entirely. Discretion sitting with the service provider allows for a trusting relationship to be developed within community, and improves provider/community relationships. Discretion sitting with an external entity risks further entrenching mistrust in the system.

Aligning employer discretion with the Bill

It is the view of the Remote Accord that maintaining service providers' capacity to exercise discretion regarding background checks already firmly aligns with the intention of the Bill to provide culturally safe care. We believe that the Bill also presents an opportunity to strengthen and formalise the processes by which employers exercise discretion regarding background checks.

A nationally consistent worker screening scheme for aged care workers could incorporate a system for documenting instances where service providers have exercised discretion in worker screening decisions. This would not only centralise risk mitigation strategies and tools but also create a transparent record of how discretion is applied in the context of remote aged care. Such a system could enable a reasonable degree of oversight while empowering service providers to make informed, culturally nuanced decisions. Centralising this information would also provide valuable data, allowing policymakers and stakeholders to assess the effectiveness and appropriateness of the protections afforded by worker screening requirements over time, particularly in relation to cultural safety and workforce retention.

Further, providing targeted resources and guidance around risk mitigation and worker screening specific to remote and very remote communities could help ensure that service providers are well-equipped to balance two key priorities: employing workers who can best meet the cultural needs of the people receiving care, and safeguarding the safety and wellbeing of vulnerable individuals receiving care. Such guidance could include best practices for assessing criminal history checks in culturally appropriate ways, strategies for community-based risk mitigation, and tools for navigating complex issues such as the over-policing of First Nations

communities. In this way, discretion can become a structured and well-supported part of the aged care workforce system, ensuring that the goals of cultural safety and risk management are not at odds but instead reinforce one another.