

Submission template

Aged Care Legislated Review

Submissions close 5pm, 4 December 2016

Instructions:

- Save a copy of this template to your computer.
- Populate Section 1 with your details.
- If you would like to respond to a specific criteria please use Section 2 of the template.
- If you would like to provide general comments please use Section 3 of the template.
- Upload your completed submission on the [Consultation Hub](#). Alternatively, if you are experiencing difficulties uploading, you can email your submission to agedcarelegislatedreview@health.gov.au

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Thank you for your interest.

1. Tell us about you

1.1 What is your full name?

First name **Nick**

Last name **Mersiades**

1.2 What stakeholder category do you **most** identify with?

Peak body - provider

1.3 Are you providing a submission as an individual (go to question 1.4) or on behalf of an organisation (go to question 1.5)?

Organisation

1.4 Do you identify with any special needs groups?

Choose an item.

1.5 What is your organisation's name?

Catholic Health Australia

1.6 Which category does your organisation **most** identify with?

Aged Care Provider

1.7 Do we have your permission to publish parts of your response that are not personally identifiable?

Yes, publish all parts of my response except my name and email address

No, do not publish any part of my response

2. Response to Criteria in the Legislation

2.1 Whether unmet demand for residential and home care places has been reduced

Refer to Section 4(2)(a) in the Act

In this context, unmet demand means:

- a person who needs aged care services is unable to access the service they are eligible for e.g. a person with an Aged Care Assessment Team / Service (ACAT or ACAS) approval for residential care is unable to find an available place; or
- a person who needs home care services is able to access care, but not the level of care they need e.g. the person is eligible for a level 4 package but can only access a level 2 package.

CHA does not have access to adequate data to determine with any confidence whether unmet demand for residential and home care places has been reduced as a result of the LLLB reforms, or if it has, by how much.

CHA notes however that, notwithstanding the LLLB policy measure to increase the supply of aged care places by increasing the overall provision ratio to 125 operational places per 1,000 people aged 70 and over by 2021-22, the overall operational provision ratio has decreased since June 2011, when it peaked at 112.8, to 111.5 at June 2015. On the face of it, this would suggest that it is unlikely that there has been a significant change in the level of unmet demand, except to the extent that the introduction of income testing for home care packages may have dampened demand for the lower value home care packages.

The conventional proxy indicator of unmet demand has been trends in occupancy rates. What is interesting about occupancy rates in residential care is that they have remained relatively stable in recent years (within the range of 92%-93%) notwithstanding that the supply of operational places has declined from 85.5 in 2011 to 81.1 in 2015 and the supply of home care places has increased over the same period from 27 to 30.4.

Moreover, occupancy of home care packages has declined, with the greatest decline being in WA where large numbers of home care packages were allocated because of the poor response to the residential ACAR during the mining boom. This decline in home care package occupancy would seem contrary to the conventional wisdom that most people, given the chance, would prefer to age at home. However, care is required in drawing conclusions based on recent occupancy trends because other factors may also be coming into play, including whether the number of places allocated at each level reflects consumer needs, the impact of the July 2014 income testing arrangements which do not incorporate conventional taper and unaligned fee policies across home care and home support.

Hence, based on this information, it would seem difficult to establish with any certainty at this time whether there has been a reduction in unmet demand, or to estimate the level of unmet demand that may exist with a provision level of 125.

It is critical however to establishing the affordability of the Roadmap's consumer-driven and market-based aged care system that the Review develops a framework and methodology that would allow a sound estimate of unmet demand to be made as soon as possible. The process should operate within the context of the LLLB measures to expand and rebalance the provision targets, the development of means testing policy options and the development of robust and nationally consistent 'gate keeping' arrangements through MyAgedCare.

2.2 Whether the number and mix of places for residential care and home care should continue to be controlled

Refer to Section 4(2)(b) in the Act

In this context:

- the number and mix of packages and places refers to the number and location of residential aged care places and the number and level of home care packages allocated by Government ; and
- controlled means the process by which the government sets the number of residential care places or home care packages available.

CHA supports the Roadmap destination that each individual's assessed care subsidy, based on an assessment of both care needs and means, should be agnostic as to where each individual chooses to live while purchasing care using their government subsidy and any top-up funding each consumer chooses to contribute for additional services. Under this policy, the current regulation of aged care would transition to the position where the number and mix of packages and places would no longer be controlled.

However, given the current regulation of the number and type of aged care services and the probability that the allocation of places across residential and home care does not reflect consumer preferences, it is important to continuity of service and investment in service expansion that controls are maintained in the short to medium term. In the meantime, as envisaged by the LLLB package's Ten Year Plan for Aged Care Reform, the process of rebalancing the provision ratio in favour of home care should be pursued as a priority, while at the same time monitoring occupancy trends in both residential and home care. This is a means of gradually rebalancing service availability to reflect consumer preference in open market conditions, and thereby reducing the risk of transitioning from a highly regulated system.

There is also a case for the rebalancing referred to above to occur in conjunction with early action to remove the current controls of home care package numbers by level, noting the current disparity in allocated places across the levels, the potential impact on demand of income testing and the inconsistency with the approach in residential care which does not allocate places by level. It is recognised that such a policy change would need to be implemented within the current forward estimates funding cap pending any decision to uncap supply. However, moving early with this action would allow future policy development to proceed on the basis of a more realistic picture of consumer demand for home care packages and residential care.

Once the balance of services types more closely reflects consumer preferences, it would be appropriate to extend 'funds following the consumer' to residential care, thereby giving all eligible consumers the flexibility to choose residential or home care.

The availability of better data on unmet demand through a MyAgedCare national prioritisation process would then contribute to decision making on when to remove all controls on supply and create a service industry. In order to ensure services are provided in certain locations and for certain special needs groups, the Government may need to adjust prices that it otherwise sets for mainstream services and safety nets.

2.3 Whether further steps could be taken to change key aged care services from a supply driven model to a consumer demand driven model

Refer to Section 4(2)(c) in the Act

In this context:

- a supply driven model refers to the current system where the government controls the number, funding level and location of residential aged care places and the number and level of home care packages;
- a consumer demand driven model refers to a model where once a consumer is assessed as needing care, they will receive appropriate funding, and can choose services from a provider of their choice and also choose how, where and what services will be delivered.

Consistent with the Roadmap, CHA supports transitioning aged care to a consumer-driven model where once a consumer is assessed as needing care, each consumer has discretion to choose their preferred provider, where they live while purchasing care and what services are purchased.

CHA notes that the Government's decision to introduce 'funding following the consumer' in home care is a positive and necessary step in this direction, as would extending 'funding following the consumer' to residential care. The latter would be best done once the balance of care ratio within the provision cap more closely aligns with consumer preferences, at which time it would also be possible to remove the balance of care ratios as well.

CHA notes that 'funding following the consumer' would give consumers greater choice and control of services while maintaining an overall cap on the supply of services. Indeed, this will be the situation that applies for home care packages after February 2017. CHA considers, however, that it would be a policy failure if reform were to stall at this point, ie. supply control was replaced by demand control, because consumers with assessed needs would not be assured of accessing care when needed. This would mean a continuation of a current weakness in the aged care system that was highlighted by the Productivity Commission.

2.4 The effectiveness of means testing arrangements for aged care services, including an assessment of the alignment of charges across residential care and home care services

Refer to Section 4(2)(d) in the Act

In this context:

- **means testing arrangements** means the assessment process where:
 - the capacity of a person to contribute to their care or accommodation is assessed (their assessable income and assets are determined); and
 - the contribution that they should make to their care or accommodation is decided (their means or income tested care fee, and any accommodation payment or contribution is determined).

CHA considers that those who can afford to should contribute more towards their care costs based on their total wealth, while those with means living in residential care also being responsible for their accommodation costs and daily living expenses. As well as being justified on fairness grounds, increased consumer contributions within life-time contribution protections is essential for securing the affordability of a consumer-driven market-based service industry for aged care which provides consumers with choice and control over services.

In this regard, CHA considers that the Review should include an analysis of the impact of the LLLB changes to means testing arrangements on total consumer contributions (actual and projected) and hence the affordability of aged care for taxpayers.

It would also be appropriate to review the current effective exclusion of the principal residence from the wealth test and the treatment of protected persons for means testing purposes. CHA considers, however, that measures to increase consumer contributions in this way should be accompanied by measures to improve consumers' and families' access to secure and affordable home equity release financial products.

CHA also considers that, as a starting point, care fees for consumers with similar needs and means should be the same irrespective of where a person chooses to live. To the extent that a decision is taken to apply different fee levels, the difference should be based on transparent policy considerations.

A policy matter that the Review needs to consider is whether a holder of a subsidy-reduced home care package should continue effectively to be required to purchase services to the full value of the package by using private funds to complement the subsidy-reduced package amount. There is a case on demand management grounds to require this approach (which effectively currently applies in residential care). This approach may however be inconsistent with any future cash-out option and could be seen as inconsistent with allowing consumers greater choice, for example, to rely on the support of close family carers.

There is another matter that CHA would draw to the attention of the Review, that is, the complexity in fee arrangements in home care that has arisen by layering an income tested fee with a subsidy reduction on top of

the longstanding discretionary basic daily fee. There is a case for simplifying these arrangements for both consumers and providers by removing the basic daily fee and instead formally recognising that consumers have the option to top-up their package in order to purchase additional services. This change could be made in conjunction with other reforms to consumer contributions, including alignment with residential aged care and home support, and addressing taper issues under the income test for home care packages.

The effectiveness of arrangements for regulating prices for aged care accommodation

Refer to Section 4(2)(e) in the Act

In this context:

- regulating prices for aged care accommodation means the legislation that controls how a residential aged care provider advertises their accommodation prices.

CHA supports the introduction under the LLLB reforms of market-based accommodation prices for non-supported residents across all residential care, with consumer choice to pay by RAD, DAP or combination RAD/DAP, and the requirement to publish accommodation prices. CHA also supports the higher accommodation supplement for new and significantly refurbished homes.

CHA considers that these measures have been beneficial to fostering a positive investment climate in aged care.

CHA also considers that there is a case for continuing with the role of the Pricing Commissioner until the supply of aged care services is uncapped under a consumer-driven market-based system, though there is merit in the meantime in indexing the current RAD threshold that triggers the need for the Pricing Commissioner's approval. CHA also supports the continuation of regulations designed to achieve equivalence between RADs and DAPs while ever the supply of services continues to be rationed.

2.5 The effectiveness of arrangements for protecting equity of access to aged care services for different population groups

Refer to Section 4(2)(f) in the Act

In this context equity of access means that regardless of cultural or linguistic background, sexuality, life circumstance or location, consumers can access the care and support they need.

In this context different population groups could include:

- people from Aboriginal and/or Torres Strait Islander communities;
- people from culturally and linguistically diverse (CALD) backgrounds;
- people who live in rural or remote areas;
- people who are financially or socially disadvantaged;
- people who are veterans of the Australian Defence Force or an allied defence force including the spouse, widow or widower of a veteran;
- people who are homeless, or at risk of becoming homeless;
- people who are care leavers (which includes Forgotten Australians, Former Child Migrants and Stolen Generations);
- parents separated from their children by forced adoption or removal; and / or
- people from lesbian, gay, bisexual, trans/transgender and intersex (LGBTI) communities.

CHA is not aware of any evidence that the LLLB and subsequent reforms have impacted negatively on arrangements for protecting equity of access to aged care services for different population groups. However, as the sector transitions to a consumer-driven market-based system envisaged under the Roadmap, full consideration will need to be given to protecting access to services by all needing aged care, irrespective of geography, cultural and social background or financial circumstances.

2.7 The effectiveness of workforce strategies in aged care services, including strategies for the education, recruitment, retention and funding of aged care workers

Refer to Section 4(2)(g) in the Act

In this context aged care workers could include:

- paid direct-care workers including: nurses personal care or community care workers; and allied health professionals such as physiotherapists and occupational therapists; and
- paid non-direct care workers including: managers who work in administration or ancillary workers who provide catering, cleaning, laundry maintenance and gardening.

CHA is not aware of any evidence that the LLLB reforms themselves have negatively impacted the education, recruitment, retention and funding of aged care workers. The availability of the results of the workforce survey currently being undertaken by NILS on behalf of the Department will provide the basis for a more informed assessment of the current aged care labour market.

This is not to suggest that there is no scope for improvement in these areas. In this regard, it is noteworthy that the provider peak groups have recommended to the Government that the aged care sector be supported in the development of an industry-led workforce strategy based on an agreed understanding of the respective responsibilities of Government, employers, workers and education and training bodies. The Review's independent assessment of where workforce responsibilities rest would be useful. A CHA paper on this and related matters may be accessed [here](#).

The effectiveness of arrangements for protecting refundable deposits and accommodation bonds

Refer to Section 4(2)(h) in the Act

In this context:

- arrangements for protecting refundable deposits and accommodation bonds means the operation of the Aged Care Accommodation Bond Guarantee Scheme .

From a provider perspective, there is no reason to question the effectiveness of the current Bond Guarantee Scheme and prudential standards, as implemented to date. It protects resident deposits while avoiding the cost of establishing and administering a guarantee fund or equivalent. CHA notes however that ACFA has been asked to review the effectiveness of the current Scheme and possible alternative options for protecting lump sum deposits, and that ACFA will be conducting separate consultation processes as part of their review.

2.8 The effectiveness of arrangements for facilitating access to aged care services

Refer to Section 4(2)(i) in the Act

In this context access to aged care services means:

- how aged care information is accessed; and
- how consumers access aged care services through the aged care assessment process .

CHA acknowledges the progress made in developing MyAgedCare as a means for improving consumer access to aged care services, including better information about services and more consistent assessment arrangements. Implementation of the Roadmap destinations will require additional investment in MyAgedCare to support consumer access to aged care services. CHA also notes that substantial additional provision was made in the recent Budget to continue the development of MyAgedCare.

Other comments

CHA notes that the Review was legislated to review the operation of the amendments made by the Living Longer Living Better Act 2013 to the Aged Care Act 1997.

CHA considers, as also highlighted by the National Aged Care Alliance, that in addressing its terms of reference, the Review should also have regard to the reform directions and destinations identified in the Aged Care Sector Committee's Roadmap for Aged Care Reform.

Moreover, CHA considers that, by taking stock of the LLLB amendments mid-way into the LLLB's Ten Year Plan for Aged Care Reform, and having regard to the matters targeted in the terms of reference, the Review is presented with an ideal opportunity to conduct a mid-term assessment of the feasibility of proceeding to the Productivity Commission's recommendations that aged care transition to a consumer-driven market-based system (a destination subsequently adopted and developed further in the Roadmap).

In this regard, a key step identified in the Roadmap is financial modelling to test its affordability for consumers, providers and taxpayers under various scenarios, including consumer contribution scenarios in conjunction with demand modelling. Accordingly, within the context of the Review requirement to assess the level of unmet need, whether to move to a consumer demand system and the effectiveness of means testing arrangements, the Review should also conduct modelling to test affordability under a variety of scenarios involving levels of unmet demand, consumer preference between home care and residential care and a variety of consumer contribution options.

While such modelling undertaken at this time may not lead to sufficiently informed analysis that would allow a decision on uncapping in the short term, it would provide the basis for ongoing monitoring and refinement as the overall supply of places is increased and consumer contribution policies are adjusted.

http://www.cha.org.au/images/M_images/AgedCareUpdate_-_040416.pdf

The availability of this modelling and analysis is vital to support a national conversation about future aged care reform based on the Roadmap. It is arguably the most important outcome that should be expected from the independent Review.