



## **Aged Care Update: The Royal Commission's Interim Report – Beyond the Headlines**

11 November 2019

The release of the Royal Commission's Interim Report, [\*Neglect\*](#), on 31 October was met with media headlines that reflected the Commission's characterisation of Australia's aged care services as being in "a sad and shocking state that diminishes Australia as a nation".

This Update provides a brief summary of the Interim Report as well as an outline of the Commission's thinking as revealed in the Interim Report, based on evidence it has received up to and including the July Hearings in Cairns.

The Final Report is due on 12 November 2020.

### **The Immediate Takeaway**

The immediate take away from the Interim Report is that it relates "a shocking tale of neglect". The Royal Commission concludes that it has heard compelling

evidence that the system designed to care for older Australians is “woefully inadequate”, that many people receiving aged care “are having their human rights denied”, and “their dignity not respected”.

The Commission describes aged care as fragmented, unsupported, underfunded, mostly poorly managed, unsafe and “seemingly uncaring”, due to neglect at all levels – governments (Federal and State), government departments and agencies and providers.

The Royal Commission also observes that many of the issues identified in previous reviews and inquiries persist despite the actions of successive governments. It comments that it is “difficult not to be critical of successive governments’ failures to fix the aged care system.” It also recognises that the system’s dependence on other sectors, such as health and vocational education and training, have added to the difficulty of implementing reform, but notes that “such factors should not excuse the years of systemic neglect”.

At its core, the Royal Commission considers the current state of aged care services reflects an ageist mindset that undervalues older people, limits their possibilities and uses language that is not respectful towards older people, referring to them as “a burden” and “an encumbrance”, and spoken of in terms of whether taxpayers can afford to pay for the dependence of older people.

Expanding on the above, the Royal Commission has identified the following in terms of how the aged care sector operates and responds:

- People receiving care have feelings of frustration, despair and hopelessness and are reluctant to complain for fear that their care will become worse.
- The system lacks fundamental transparency, including about the performance of providers.
- The regulatory system intended to ensure safety and quality is unfit for purpose, does not adequately deter poor practices and fails to detect them.
- The workforce is under pressure, pay and conditions are poor, innovation is stymied, education and training is patchy. Aged Care is not a valued

occupation.

- The aged care system has not kept up with changing needs and community expectations.
- Some providers appearing before the Commission appeared to be defensive and “occasionally belligerent in their ignorance of what is happening in their facilities”, and reluctant to take responsibility.

### **Areas Identified for Priority Action**

As expected, and appropriately, the Interim Report does not include any recommendations. However, the Interim Report highlights the following three areas that are in need for urgent action, meaning that there is no reason to delay until the Commission’s Final Report, viz.

1. Provide additional higher level home care packages to reduce the waiting list.
2. Respond to the significant over-reliance on chemical restraint, including through the seventh Community Pharmacy Agreement which is currently being negotiated.
3. Stop the flow of younger people with disability going into aged care.

Various Government Ministers and the PM have responded to media questioning by indicating that the Government will be providing an initial response to the Interim Report before Christmas, presumably in the December MYEFO context. The scope of the response is unclear, but it is widely speculated that the response will include additional funding for home care packages.

CHA has advocated that the response should also address the financial pressures being faced by residential aged care providers.

### **Indications of the Commissioners’ Thinking**

The bulk of Volume 1 of the Interim Report is dedicated to a discussion of six “inconvenient truths” about the aged care system. This discussion includes what the Royal Commission says is “clear guidance on our thinking to date”. These “inconvenient truths” are summarised below, as well as the Commission’s current thinking on issues raised in evidence.

1. The first 'inconvenient truth' concerns **difficulties older people encounter when accessing formal aged care and support**. The Commission details the limitations of online portals in providing information, the lack of localised and face-to-face services to navigate the system and connect people to local services, the inadequacies of My Aged Care, and the extent to which waiting times for home care packages, and the lack of communication about the list, is compounding frustrations with My Aged Care.

The Commission concludes that:

- improving peoples' knowledge about aged care services and demystifying the process of entry requires a fundamental re-think of My Aged Care, a redesign of its website and education and training for call centre staff; and
- more face-to-face support services are required at the regional level to support older people and to link them to services in their local area.

The Commission will be making recommendations concerning:

- the introduction of a performance rating system for aged care services, along the lines of Nursing Home Care Compare in the US and the UK's performance rating system; and
- how to improve the experience of older people and their families in navigating the system.

2. The second 'inconvenient truth' concerns **the current system of prioritising and managing waiting lists for home care packages** which it describes as "a cruel lottery in which some people can die before they ever find out if they have, in fact, won."

The Commission noted that the creation of the national queue made transparent for the first time how many people are waiting for home care packages, and that "the size and shape of aged care is constrained by the Australian Government through controls on the supply of aged care places, rather than being driven by demand."

While noting that it unacceptable for there to be more

people waiting for packages than receiving them, the Commission also noted concerns about the capacity of the sector to grow so rapidly to meet demand without risking quality.

The Commission will be making recommendations concerning:

- the issue of unspent funds; and
- significant additional funding for home care packages, both immediately and into the future, in order “to ensure that supply meets community expectations” and “to keep older people safe in their homes”.

3. The third ‘inconvenient truth’ is that the Commission has revealed instances where **the use of restrictive practices in aged care has been inhumane, abusive and unjustified**, and that there is both empirical and anecdotal evidence to show that use of restraints in aged care is common.

It points out that the disability sector has adopted a framework and strict procedures to regulate restrictive practices which incorporate a human rights approach based on the recommendations of the Australian Law Reform Commission, whereas there has been little progress in aged care. By implication, the Commission is being critical of the Government’s July 2019 changes to strengthen the regulation of restrictive practices in residential aged care.

The Commission notes that the evidence suggests that:

- the overarching reason for the use of restraints in residential aged care is a care model that focuses on managing symptoms, rather than addressing peoples’ underlying needs and concerns;
- there is a lack of knowledge across personal care workers, nurses and GPs about restraints and their impacts, alternatives to their use and the safe and appropriate management of the behavioural and psychological symptoms of dementia; and
- workload pressures can often mean that there is no time to do anything other than to restrain older people, and that alternatives to restraining a person

takes skill, time and patience.

The Commission acknowledges that the drivers behind the use of restrictive practices are complex, and that the Commission will make recommendations on restrictive practices in its Final Report. In the meantime, it has offered the following observations:

- Training in understanding dementia, the safe and appropriate management of behavioural and psychological symptoms, and restraints and their impacts, is insufficient for both aged care staff and GPs, and throughout the health and aged care sectors.
- The Residential Medication Management Review program should provide an effective mechanism for safer medication review, however the current remuneration arrangements applying to the conduct of these reviews could restrict people's access to them.
- Given what the Commission has heard about the frequent prescription of antipsychotic medications by GPs, it may be appropriate to limit their "initiation" in residential aged care to registered psychiatrists.
- There is no justification for inconsistency in protection of people between the disability and aged care sectors, and that the aged care sector has fallen significantly behind, to the significant detriment of aged care consumers.

The Final Report's recommendations will address:

- the collection and publication of data on the use of physical restraint and psychotropic medications in residential aged care facilities;
- the use of registered psychiatrists to initiate the use of antipsychotic medications;
- introducing mandatory dementia-friendly design principles for new and refurbished aged care facilities; and
- the current regulatory framework and other measures in aged care designed to reform the use of restraints.

In the meantime, the Commission recommends that the opportunity presented by the current negotiation of the seventh Community Pharmacy Agreement be taken to

improve the effectiveness of the Residential Medication Management Review Program.

4. The fourth 'inconvenient truth' is that **Aboriginal and Torres Strait Islander people are not being well served by the current aged care system** because most Aboriginal and Torres Strait people do not have access to residential aged care services specifically tailored or targeted to them. Of those who access residential aged care, 78% obtain services from mainstream providers due to lack of tailored services.

The Commission links the need for specific services for Aboriginal and Torres Strait Islander people to Australia's history which includes "mass displacement, dispossession, cultural disruption, loss of language, and policies of assimilation which have led to intergenerational trauma, a deep distrust of mainstream and government services, pervasive inequity in life expectancy, health status and employment outcomes".

The Commission's final report will address how aged care services for Aboriginal and Torres Strait Islander people can be delivered in ways that are flexible, adaptable and culturally safe, including:

- providing accessible aged care assessment pathways;
- integrating aged care services with other services, such as primary health, mental health and disability services;
- facilitating aged care provision 'on Country' and 'return to Country' where that is possible;
- greater provision of Aboriginal and Torres Strait Islander- specific services in cities and regional areas;
- easier access to respite services; and
- exploring ways to support aged care services to be staffed and managed by Aboriginal and Torres Strait Islander people.

5. The fifth 'inconvenient truth' concerns the Commission's conclusion (reached before the workforce hearings conducted in Melbourne) that **aged care is "a long way from being able to be an employer of choice that can attract employees** by offering superior working conditions, career paths, training and professional development, and rewarding and satisfying work."

The Commission highlights evidence it has received about the impact of inadequate staff on people in aged care viz. basic standards are not met and staff are “overworked, rushed and under generally under pressure”. However, the Commission notes that “the question of how to ensure adequate staffing levels in residential care has emerged as a contested issue”.

The Commission advises that for the Final Report, it will:

- give closer consideration to options to ensure staffing levels and the mix of staffing are sufficient to ensure quality and safe care;
- investigate in more detail the factors that impact on the recruitment, retention and turnover of staff;
- explore developmental, preventative and corrective measures to ensure the quality and suitability of aged care workers who are not already subject to professional registration arrangements, including consideration of screening and registration measures in other sectors such as the disability sector;
- consider matters to improve the remuneration of aged care workers, noting that “they are consistently less well remunerated than their counterparts in other sectors”;
- examine what the sector is doing to respond to the Aged Care Strategy Taskforce’s proposal on how to improve career options and paths for its workers; and
- consider the issues that are relevant to achieving continuity of care, including different care models, as well as the governance structures and practices and culture of providers.

6. The sixth ‘inconvenient truth’ is the **plight of almost 6,000 people under the age of 65 years who are forced to live in residential aged care** because there is nowhere else to go.

The Commission considers that, subject to very limited exceptions, by 2022 no younger person should be entering residential aged care, and by 2025 no younger people should be living in residential aged care, except for those that choose to live there.

The Commission acknowledges that some critical parts of the solution will take time, including full rollout of the

NDIS and the large scale building program to meet the shortfall in accommodation being provided through the Specialist Disability Accommodation program, and that “more detailed findings and recommendations and long-term reform strategies will appear in the Final Report”.

In the meantime, the Commission considers that much can be done. This includes:

- steps to close “the pipeline straight into residential aged care from hospital” by improved discharge planning involving more streamlined NDIS and Specialist Disability Accommodation eligibility assessments, thereby avoiding referral to ACATs;
- the appointment of independent ‘system wranglers’ to assist with planning and coordinating care, including to prepare someone to live in the community; and
- pursuing alternative approaches for the development of specialist disability accommodation given that the market response has been slow and incomplete. This may require active participation in the market as has been the case for compensable insurers.

### **The Task Ahead**

The Commission acknowledges that it still has a large task ahead of it – “we are under no illusion about the scale of the task before us”.

Over the next 12 months, the Commission has indicated that it will further explore:

- quality and safety issues;
- provider perspectives;
- funding arrangements;
- governance and leadership;
- accountability; and
- options for systemic reforms.

What remains understated is that there is a seventh inconvenient truth - **the reform directions that the Commission has identified will be expensive**, and all the more so when the Baby Boomer generation reach their 80s from the late 2020s. The other related inconvenient truth is that a significant investment will be

required to improve the depth and quality of the aged care workforce to meet current and future needs. Moreover, irrespective of the investment and effort applied, the required improvement in the workforce will not be achievable in the short or even medium term. It will take a sustained effort over a longer timeframe and structural reform of the current system.

Clearly, the main task still lies ahead, including securing community and political buy-in for the reforms and the finances to support them if the issues identified by the Commission, and raised expectations, are to be met.

*Disclosure statement: The author of this Update, Nick Mersiades, is a member of the Aged Care Financing Authority. The opinions in this Update should not be read as being an expression of the Aged Care Financing Authority.*

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