

Submission

to Productivity Commission Study into Indirect employment in aged care

BY: Karyn Cullen and Enid Cullen

ROLES: Carer and care recipient both at home and in aged care (in respite)

BASIS FOR SUBMISSION: Our personal experience with both indirectly and directly employed representatives' performance in delivering care in both home care and aged care settings over the last 10 years in Bundaberg and Brisbane in relation to 5 recipients, 2 residential aged care facilities (one NFP and the other for profit) and 5 in home care providers (all NFP)

DATE: 28 April 2022

(References are to Issues Paper)

Information request – other sources of data	What of the ATO's records of payments to and number of employers paying to aged care workers?
Information request – who is responsible for quality of care provided by agency workers, independent contractors or platform workers to recipients and who is currently responsible for lapses in WHS standards or quality of care?	Can these questions not be best addressed by the Commission seeking a legal opinion or running a test case, rather than supposition?
Information request – is there any evidence that the existing regulatory framework is deficient in scope, implementation or enforcement	<p>Our experience, in both in home care and residential care, has been that the escalation process for concerns arising with care is inadequate in practice. Currently:</p> <ul style="list-style-type: none">the aged care or services provider representative listens, agreement to remedy is reached;if nothing changes,issue put in writing to representative copying in supervisor and manager, response in writing or meeting; agreement is reached to remedy;if nothing changes, <p>repeat.</p> <p>When the issue becomes bad enough an official complaint is lodged. Recipients and their families are not supported by an external party to ensure that issues are resolved early.</p> <p>Solution: We think that an online register of all issues raised should be put in place. Once the issue is remedied, the 'case' is closed (by the recipient). If after a set period the issue is not resolved, the regulator becomes involved to support the recipient. The system can be set up to send review times and progress notices to all parties with reminders to complete tasks in the</p>

	<p>register. Categories of concern can have different response times. The technology would not be difficult to implement.</p> <p>Advantages:</p> <ul style="list-style-type: none"> • Ensures assistance with complaints earlier so that recipients don't have to be put in worse circumstances before issues are resolved • Gives providers the incentive they need to work quickly and decisively to resolve issues early • Gives regulators insights into the issues that concern recipients at a granular level • gives the regulator a lot of data to work with to help set benchmarks, improvement goals, etc • potential to increase rate of improvement of care and services • potential to reduce seriousness of issues experienced <p>In fact, the collection of data (including the nature of the role and status of employment of the representatives involved in the incidents) in a system like this would have given the Commission the sort of data it is looking for in this study.</p> <p>The downsides might include the close supervision of the providers and a bias in favour of recipients – we have no doubt that both are justified to turn the sector around.</p>				
<p>Information requests – pros and cons of agency workers, independent contractors and platform workers for aged care recipients?</p>	<table border="1"> <thead> <tr> <th data-bbox="451 958 922 994">PROS</th> <th data-bbox="922 958 1391 994">CONS</th> </tr> </thead> <tbody> <tr> <td data-bbox="451 994 922 1357"> <ul style="list-style-type: none"> • flexible workforce • scalable workforce • can be incentivized by external systems • wage rates necessarily higher due to an element of insecurity for the workers • incentive to perform (and therefore rate) well to increase job security </td> <td data-bbox="922 994 1391 1357"> <ul style="list-style-type: none"> • if people move around too much, lack of consistency of carer reducing the development of personal relationships and the familiarity for the recipient • insecurity of tenure for the workers </td> </tr> </tbody> </table>	PROS	CONS	<ul style="list-style-type: none"> • flexible workforce • scalable workforce • can be incentivized by external systems • wage rates necessarily higher due to an element of insecurity for the workers • incentive to perform (and therefore rate) well to increase job security 	<ul style="list-style-type: none"> • if people move around too much, lack of consistency of carer reducing the development of personal relationships and the familiarity for the recipient • insecurity of tenure for the workers
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<p>What are the potential impacts of preferencing direct employment (for aged care recipients)?</p>	<p>We do not consider the differentiation in impact to be between direct and indirect forms of employment (this view aligns with the anecdotal evidence provided to the Royal Commission and quoted in this issues paper) because it is the nature, passion and approach of the people that makes for good quality care (this view aligns with the view of Mable expressed at the Royal Commission and quoted in this issues paper).</p> <p>Without exception, issues are caused by lack of care or inadequate staffing putting pressure on staff rostered on.</p> <p>There has been no difference in our experience between geographies or whether the context is residential aged care or in-home care.</p> <p>Getting the right people in the job is paramount; then train them well (in an ongoing program) so they have the skills they need and pay them well so they don't leave the sector</p>				

Consider this suggested workforce scenario in the interests of recipients (with consequential benefits for workers and the sector generally):

- the whole workforce being indirect (of various types)
- the competition being within the workforce by operating 1 rating system for all workers who all need to be registered to offer themselves for work (cf Uber drivers but where there is no Didi or Hola separate rating system)
- the training function being delivered nationally by a government agency or a group of accredited 3rd party education institutions (not a port, but a well established program based on sound principles to serve the sector consider ACU or ALC or similar institutions that have the necessary institutional values) – funded by HECS-style loans for workers (or sponsored by providers/agencies/platform providers or scholarships)
- some element of ‘specialisation’ incorporated in training regime (eg dementia care, Parkinson’s care, alzheimers care, LGBTIQ+ care, mental health issues, disability)
- roles (within a career pathway) specified by the regulator and paid minimum decent wage levels for each role and possibly increasing as levels of training/competency completed
- external accreditation for representatives to become registered and annual (or reasonable period) re-accreditation (by competency assessment written and practical and involving refresher training either at that time or gradually over the intervening period) of the system for CPR and other first aid qualifications
- de-registration being the penalty for failing to achieve re-accreditation or for consistently poor ratings (the usual AAT process to apply for people alleging unfair treatment)
- legislation to support the service providers’ non-delegable duties to provide high quality care (through supervision and ultimate responsibility for the standard of care delivered by their workers) eg legal rights to direct the way in which the work is performed parallel to an employment relationship
- legislation to minimize the effect of insecurity for workers to provide workers compensation, WHS, portable superannuation, and paid sick leave in the same way as if employees
- ‘talent’ scouting at end of high school and within tertiary institutions at open days to find the right people including testing for appropriate personality traits
- Use of technology to ensure handovers between staff are effective and in the best interests of the recipients
- the career pathway supported by:
 - the infrastructure of residential aged care – eg small pods of recipients within groups of pods within sectors in a facility
 - the structure of in-home care provision - buddy training within provision of service, review of service, teams, groups of teams

so that the levels for advancement are available within the sector are numerous and clear

<p>Information request – how would preferencing direct employment in aged care affect other care sectors and the economy more broadly?</p>	<p>We have no personal experience in the NDIS and childcare sectors. However, their nature and needs are similar to the aged care sector. On this basis, we repeat that we do not consider the differentiation in impact on recipients to be between direct and indirect forms of employment. The above suggested scenario for consideration may be advantageous in the NDIS and childcare sectors as well where we understand that the negative effects of low wages and low value for staff are also felt.</p> <p>We have no expertise in assessing the impact of any particular employment type in aged care on other care sectors and the economy more broadly. However, we think it is unfortunate that the same question could not be asked of preferencing indirect employment, acknowledging there are reasons for this given the recommendation of the Royal Commission. We think it is the role of the Productivity Commission in a study such as this to ensure that the questions are not so narrow as to ignore the exploration of the impact of an alternative view and so waste the opportunity to look at the ‘flip side’.</p>
<p>Information request – would it be appropriate to regulate indirect employment in aged care using industry-specific regulation vis-a-vis economy-wide regulation?</p>	<p>We have no expertise in making this assessment. However, we think that regulating a particular type of employment in 1 sector, especially if it is successful, is not productive for other sectors that might benefit. Legislation addressing all sectors or a group of similar sectors with provision for regulations dealing with any unique specifics of each sector seems an efficient approach.</p> <p>We also think that the predominance of the individual as a business is a real possibility in the future of work so that working out an economy-wide approach to indirect employment (minimizing it or enabling it depending on the outcome of deliberations) seems sensible.</p>
<p>Other feedback</p>	
<p>Royal Commission recommendations about the aged care workforce – BOX 2</p>	<p>The non-delegable duties of organisations that provide subsidized aged care services should include a duty to provide supervision of staff and regular quality checks against the standards</p>