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Aged Care Employment

Submission to the Productivity Commission on Aged Care Employment

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Thank you for the opportunity to provide a submission to the Productivity Commission's inquiry into the indirect employment of aged care workers.



Information request

For the purposes of the study, the Commission proposes to focus primarily on the use of independent contractors (including those in labour hire agencies) and platform workers among nursing and personal care workers in residential and home-based aged care. Should labour hire agency workers who are directly employed by the agency also be a major focus of the analysis? If so, why?

Given both of these worker types will ultimately supply services to Approved Providers, we suggest it is appropriate to include them in any analysis.



Information request

Available data suggest that the prevalence of agency workers, independent contractors and platform workers in aged care is small.

- Is this accurately reported in available data sources? For example, is there a highly-transient workforce employed via digital platforms, agencies or as independent contractors that is not being captured in existing surveys?
- Are there other sources of data on employment arrangements in aged care that the Commission should consider using for this study?

The Commission is seeking information from **aged care providers** in both residential and home-based programs regarding the employment contracts of their carer workforce.

- To what extent do aged care providers use agency workers, independent contractors and platform workers for personal care and nursing roles?
- What types of tasks do independent contractors and platform workers in caring roles undertake? Are these different to the tasks undertaken by employees or labour hire agency workers?
- Is the use of agency workers, independent contractors and platform workers likely to increase in the future? If so, why?

The Commission is seeking information from **aged care workers** in both residential and home-based programs regarding their employment status.

- If you currently work as an agency employee, independent contractor, or platform worker, are you satisfied with your employment arrangements? Would you prefer a different employment arrangement?

Regis is one of Australia's largest aged care providers and employs circa 9000 people across residential aged care, home care, health and wellness centres, and retirement living.

The vast majority of Regis' workforce is employed on a permanent basis with most (83%) employed part time and 12% full time. Part-time workers have the option to pick up additional shifts.

Five per cent of Regis' workforce is employed on a casual basis. The casual pool is made up of employees who specifically wish to work on a casual basis. These employees are trained in Regis'

policies and procedures, and work across one or more Regis homes or services to fill gaps in rosters, usually created by personal leave or annual leave.

In the event a roster gap is unable to be filled through existing Regis employees (either a part-timer picking up additional shifts or a casual worker), Regis uses agency workers to provide care and services. Prior to the COVID-19 pandemic, agency workers were generally available to fill shifts. Demands on agency workers from the health and aged care sectors in particular increased unexpectedly, rapidly and substantially during the 2020/21 pandemic, with demand remaining higher than usual since. It is now common that requests to agencies for workers cannot be met.

Regis generally does not use platform workers, with the exception of a very small number during the early stages of the pandemic. Regis' experience ultimately, was that there was very limited engagement with our requests and a very small number of workers engaged through the platform. The hourly rate was substantially higher than direct employment rates and generally unaffordable under the existing funding arrangements.

Regis' strong preference is direct employment of the workforce, with each worker engaged for as many hours up to full time as possible, depending on the shift and hour preferences of the worker against the shifts and hours available at the service.

Workers in aged care are paid less than equivalent roles in other sectors, for example acute care and disability care. This is a major contributor to the well-documented workforce supply shortages in aged care.

Regis recommends that the Commission includes in its considerations an assessment of payment for travel between clients for home care workers. Regis pays its employees for direct travel between clients.



Information request

What are the implications for aged care recipients of using agency workers, independent contractors, or platform workers to provide government-subsidised care? Who is responsible for the quality of care provided in these circumstances? Does the situation differ if the worker is engaged as an independent contractor rather than as an employee of an agency or a platform?

Who is currently accountable for lapses in work health and safety or quality of care when care is delivered by agency workers, independent contractors or platform workers?

Is there any evidence that the existing regulatory framework is deficient in scope, implementation or enforcement?

Are there examples of good practice or effective regulation of employment arrangements for agency workers, independent contractors and platform workers in other sectors or other countries that might be applicable to aged care?

Aged care recipients generally benefit from the distinct advantages of direct employment of workers by Approved Providers. This is enabled through strong governance across the full delivery of operations to ensure high quality care, including:

- Continuity of carer
- Robust record keeping systems
- Strong clinical leadership and supervision of workers
- Structured staffing/rostering systems and practices
- Worker scope of practice frameworks
- Workers with training, learning and professional development requirements and opportunities
- Clinical governance, incident management and feedback mechanisms and monitoring, consumer engagement, quality and assurance activities
- Teaching, training and research programs.

Approved Providers are accountable for the care and services delivered by all worker types, ensuring they are suitable qualified, noting that registered professionals are also regulated by the Australian Health Practitioner Regulation Agency. Approved Provider's accountabilities in this regard are not diminished in the event they engage agency to undertake this work.

Approved Providers are accountable for the work health and safety of all workers, regardless of how they are engaged.

Consideration should be given as to whether companies that provide agency workers are properly accountable for ensuring appropriately experienced and competent workers are provided.



Information request

What are the pros and cons of agency workers, independent contractors and platform workers in aged care for:

- aged care recipients (in terms of quality of care and consumer choice)
- aged care workers (in terms of employment conditions and worker preferences)
- aged care providers (in terms of job creation and availability of workforce, flexible and innovative models of care, accountability of aged care providers for the care delivered on their behalf, costs of providing care and viability of aged care providers)?

Are the impacts different in residential care settings compared to home care settings?

What role can technology play in providing support in aged care? How have digital platforms changed the way aged care workers are sourced? What other forms of technology are used to engage aged care workers? How can technology be used to improve the efficiency and quality of care?

Please see earlier response.

In an environment of workforce scarcity, workers can earn higher incomes through agency work due to the high demand for services.

Regis prefers to directly employ and support our workforce. This delivers superior outcomes for aged care recipients and a better work experience for the majority of workers. The agency and platform workforces are more expensive and less reliable. An Approved Provider has less information and surety about the competence of an agency or platform worker in a range of skills and competencies relevant to providing quality and safe care of the elderly

Regis holds the same preference for direct employment in residential aged care and home care settings. Regis notes the additional risks of independently contracted, agency and platform workers in home care, where the workforce is distributed and not directly supervised.

Technology is critical to providing support in aged care. Regis uses various platforms to attract, retain, communicate with, roster, record time and attendance, record key data (personal, competency, qualifications, career aspirations etc) and support our workforce. These platforms and technology help to improve the efficiency and quality of care, together with our clinical management, incident reporting, feedback and other quality systems.



Information request

What are the potential impacts of preferencing the use of direct employment of personal carers and nurses in aged care? How could providers give effect to such a requirement in practice?

If the use of agency workers, independent contractors and platform workers in aged care was restricted, could they be readily and effectively replaced by workers engaged as employees of aged care providers? Would such a restriction affect the cost of care? If so, how (for example, requiring providers to employ a larger permanent workforce or increasing administration costs etc), and by how much?

Are there any preconditions in personal care and nursing workforce supply that would be required prior to any potential policies and procedures to preference the use of direct employment?

How would preferencing direct employment in aged care affect other care sectors and the economy more broadly?

Are there any lessons for aged care in the experience of the National Disability Insurance Scheme or other sectors?

Would it be appropriate to regulate indirect employment in aged care using industry-specific regulation vis-à-vis economy-wide regulation?

Regis already preferences direct employment.

There would be no material increase in the cost of care through additional direct employment compared to indirect employment.

Workforce supply constraints in the aged care sector mean that any worker who desires direct or more direct employment can effectively find it.

Other issues for the Commission to consider

Regis recommends that the Commission review the substantial differences between tax-paying and tax-exempt Approved Providers, which make for a deeply unfair and uneven competitive environment.

The main areas relating to this review are payroll tax and salary packaging benefits. Separately, there are other tax differences including income tax, land tax and stamp duty. The payroll tax means that tax paying / for profit Approved Providers are substantially disadvantaged compared to tax exempt / not for profit Approved Providers. This latter group is fully exempt from payroll tax. In real terms, payroll tax for Regis amounts to circa \$20-\$25m each year. Regis considers that this inequity should be addressed.

In relation to salary packaging benefits, one group of workers in the sector is disadvantaged compared to another group of workers in the sector, despite the work being the same. Regis considers that this inequity should be addressed. To do so would open up additional supply of workforce to both sectors which would ultimately benefit recipients and residents, and would also allow for cross skilling of the workforce.

The Commission should note that the salary packaging benefits for workers employed in not for profit settings are calculated by employer and not employee. In practical terms, this means that a worker can use the full allocation of benefits at each of more than one employer.

The following table summarises the salary packaging inequities and the substantial disadvantage to tax-paying / for profit Approved Providers:

Common Benefits	Tax paying / for profit	Tax exempt / not for profit
<p>Fully Taxable Benefits – rarely used for salary packaging:</p> <ul style="list-style-type: none"> • Expense • Property • Residual 	<p>Fringe Benefits Tax</p> <ul style="list-style-type: none"> • Fully subject to FBT • No additional beneficial salary packaging benefit for employees 	<p>Fringe Benefits Tax</p> <ul style="list-style-type: none"> • Concessional FBT treatment <ul style="list-style-type: none"> ○ Exempt up to a capped amount if a public benevolent society, health charity or not for profit hospital ○ Rebatable at 48% up to a capped amount for certain income tax exempt employers • Beneficial salary packaging benefit for employees <ul style="list-style-type: none"> ○ \$30k cap for public benevolent society and health charity, \$17K cap for not for profit hospital. ○ Rebatable cap is \$30K ○ Additional salary packaged meal entertainment cap - \$5K <p>These require application to the ATO.</p>
<p>Concessional benefits – more commonly used for salary packaging:</p>	<p>Fringe Benefits Tax</p> <ul style="list-style-type: none"> • Subject to FBT at a reduced amount due to a 	<p>Fringe Benefits Tax</p> <ul style="list-style-type: none"> • Concessional FBT treatment <ul style="list-style-type: none"> ○ Exempt up to a capped amount if a public benevolent society,

<ul style="list-style-type: none"> • Cars • Car parking • Meal entertainment • Tablets / iPad / smartphones • Business travel • Wellness programs • Airline lounge membership • In-house benefits (note not salary sacrificed) 	<p>concessional valuation approach depending on the benefit (possibly no FBT in some limited circumstances)</p> <ul style="list-style-type: none"> • No additional beneficial salary packaging benefit for employees 	<p>health charity or not for profit hospital</p> <ul style="list-style-type: none"> ○ Rebatable at 48% up to a capped amount for certain income tax exempt employers <ul style="list-style-type: none"> • Beneficial salary packaging benefit for employees <ul style="list-style-type: none"> ○ \$30k cap for public benevolent society and health charity, \$17K cap for not for profit hospital. ○ Rebatable cap is \$30K ○ Additional salary packaged meal entertainment cap - \$5K <p>These require application to the ATO.</p>
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Career progression opportunities:

Regis has a 30-year history of providing career opportunities across our entire workforce. Regis invests substantially in learning, development and talent programs.

Some examples relevant to the Commission’s inquiry regarding nursing and personal care roles in particular are:

- Worker SS completed a Diploma of Nursing student placement at Regis, then joined Regis as a Registered Nurse (RN). During the RN role, SS completed a talent program and multiple secondment opportunities in management and home administration roles (Office Manager, Funding and Documentation Coordinator, Admissions Coordinator). SS was successful in gaining a Regis Home Assistant Manager role and is currently acting General Manager of a Regis Home.
- Worker RH commenced at Regis 14 years ago as an Assistant in Nursing through an Agency. Regis supported RH’s education pursuits, firstly to an Enrolled Nurse and then to a Registered Nurse. RH subsequently became a Clinical Care Manager and has held a range of senior clinical roles with responsibilities over multiple Regis aged care homes and jurisdictions. RH is currently a Clinical Care Specialist Manager – a significant leadership role.
- Workers HL, TH and AK have been supported through professional development, on the job training and mentoring over the last 12 months to successfully advance from direct care roles to Client Service Managers in the Home Care division. These team members now provide mentoring, supervision and support for other Home Support Workers, in addition to coordinating the care and services for our Home Care Package clients. These internally promoted team members use their working knowledge gained through the provision of direct care and support at Regis in their Client Service Manager roles, which particularly benefits clients experiencing care for the first time and new home support workers entering the sector.

Undervaluing of workforce

Regis considers the public narrative around the aged care workforce to be deeply unjust and detrimental to aged care workers, care recipients and Approved Providers.

A strong, valued and supported workforce is essential to provide high quality care to older Australians.

Regis recommends the Commission consider the impacts of pay differences, work value, public support and morale on the workforce and specifically productivity.