

26 July 2016

Dr Stephen P King
Commissioner
Human Services Inquiry
Productivity Commission
Locked Bag 2, Collins Street East
MELBOURNE VIC 8003

Inquiry into introducing competition and informed user choice into human services

Dear Dr King

The Aged Care Guild (“The Guild”) welcomes this opportunity to assist the Productivity Commission with its consideration of the residential aged care sector as suited to further investigation and reforms involving increased competition, contestability and user choice, as part of the Human Services Inquiry.

The Aged Care Guild

The Guild is an association of nine of the largest private residential aged care providers in the industry, including three publicly listed companies*:

- Allity Aged Care
- Arcare Aged Care
- BlueCross Community and Residential Services
- Bupa Aged Care
- Estia Health*
- Japara Healthcare*
- McKenzie Aged Care Group
- Opal Aged Care
- Regis Aged Care*.

Our purpose is to support ongoing investment in the industry to meet future demand. To achieve this, the Guild works collaboratively with government and other industry groups to communicate the concerns and requirements of the sector, to best cater for and meet the needs of Australia’s ageing population.

Together, our membership cares for over 37,000 residents (circa. 20% of the industry) and employs around 39,000 staff across 409 facilities Australia wide. With a further 27 facilities currently under construction, our members continue to be the largest builders or acquirers of beds in the industry. Indicative of this, the government recently allocated 3,170 of 10,940 (28.98%) in funding for residential places to Guild members in the most recent Aged Care Approvals Round (ACAR).¹ As such, Guild members are ideally positioned, and actively seeking to drive, the sectors rapid expansion.

The sector requires a renewed focus on a stalled reform process

The Guild is concerned that restrictive regulatory arrangements and the lack of an articulated policy direction from government is impacting development and stability in the sector. There needs to be further discussion about expanding competition and contestability in the residential aged care sector and an articulated plan as to how this will come about. Meanwhile, consumers’ experiences and interactions with the system can be significantly improved and require further thought. A focus on these issues is within the scope of the Commission’s Inquiry and would be welcomed by the Guild.

¹ Department of Health, Results of the 2015 Aged Care Approvals Round (ACAR), <<https://agedcare.health.gov.au/aged-care-funding/aged-care-approvals-round-acar/results-of-the-2015-aged-care-approvals-round-acar>>, 30 June 2016.



The aged care sector has been significantly shaped by the Commission's 2011 Inquiry Report *Caring for Older Australians*, which subsequently saw the introduction of the *Aged Care (Living Longer Living Better) Act 2013* and the current legislative and administrative arrangements, including the Aged Care Funding Instrument (ACFI).² The intended impact of these reforms was to move the aged care sector towards a more consumer-driven, market-based system, in which consumers are provided with greater choice and flexibility in their decision making.³

However, as the sector has grown and adapted to this new legislative and administrative setting, it is becoming clearer that an independent review of these arrangements, and analysis of future policy directions, is required. The reforms articulated in the Commission's 2011 Inquiry Report, and supported by the introduction of the Living Longer Living Better package of reforms, have only progressed to a certain extent. Although there is bipartisan agreement on the general direction of the sector, policy initiatives have been lacking and the direction provided by the Commission's 2011 Inquiry Report is not being advanced.

Areas for reform

The Guild submits that there is a compelling basis for the Commission to consider fundamental aspects of the residential aged care system that require reform, through 1) enabling competition and contestability (amongst providers) in residential aged care, and 2) improved user choice (for consumers and future residents), consistent with the recommendations of the 2011 Inquiry Report.

1. Introducing greater competition and contestability

Aged Care Roadmap

The Guild is concerned that the residential aged care sector has received limited strategic policy direction from government. Although there has generally been bipartisan agreement on aged care issues, and on the future direction of the sector, little has been produced to formalise or guide the reform process.

Following a referral from the Minister, the Aged Care Sector Committee released the Aged Care Roadmap in April 2016. The Roadmap is intended to 'generate discussion across the aged care sector and government regarding future reforms to aged care' by providing an industry-driven blueprint for the reform process.⁴ It seeks to balance 'government stewardship' with 'a consumer driven, market-based, sustainable aged care system' and presents a pathway towards this goal. Policy initiatives to enable this are not actively being considered or discussed by government. It is not enough that government broadly acknowledges the Roadmap as a useful document to generate discussion.

It is the Guild's view that, in the absence of a committed response from Government, to review or engage with the sector on its short- to longer-term direction, the Commission would be ideally placed to independently test and consider the Roadmap (which is consistent with and promotes competition and contestability, and user choice) within the context of this Inquiry.

Revisions to licensing and supply

The Guild submits that consideration should be given to freeing up licenses and supply of residential aged care places. This is necessary, timely and ultimately in the interests of competition and informed user choice. The government has confirmed the need and its intent to free up supply of residential aged

2 Productivity Commission, *Caring for Older Australians*, <<http://www.pc.gov.au/inquiries/completed/aged-care/report>>, August 2011; *Aged Care (Living Longer Living Better) Act 2013*, <<https://www.legislation.gov.au/Details/C2013A00076/Controls/>> accessed 15 July 2016; Aged Care Funding Instrument, <<https://www.humanservices.gov.au/health-professionals/services/aged-care-funding-instrument>>, accessed 21 July 2016.

3 Deloitte Access Economics, *Australia's aged care sector: economic contribution and future directions*, <[http://www.agedcareguild.com.au/Portals/6/Media&PolicyArticles/15062016%20Australia's%20aged%20care%20sector%20%20DAE%20final%20report%20\(005\).pdf](http://www.agedcareguild.com.au/Portals/6/Media&PolicyArticles/15062016%20Australia's%20aged%20care%20sector%20%20DAE%20final%20report%20(005).pdf)>, June 2016.

4 Aged Care Sector Committee, *Aged Care Roadmap*, <<https://agedcare.health.gov.au/aged-care-reform/aged-care-roadmap>>, March 2016.

care places. Senator Mitch Fifield, the previous Minister for Health, summarises the governments thinking and the views of the sector in this regard:

Governments can continue to try and second guess what older Australians want. We can continue to ration their beds and hand them out like taxi licences. Or we can aim to ultimately get out of the way; let the consumers decide what they want and allow the market to supply what is needed.⁵

ACAR rounds have been a measure to allocate and control places, the Commonwealth's financial commitment and have effectively been an interim step towards the competitive market that Senator Fifield described. For Home Care Packages, allocation via ACAR rounds will be phased out from February 2017, after which time funding will be allocated directly to consumers. Industry expects that the residential aged care sector will soon follow suit. This Inquiry is therefore well timed and would allow stakeholders to garner the success of the rollout and how this might be successfully applied to the residential sub-sector.

Freeing up licensing for residential care will introduce competition and contestability to the residential aged care marketplace. It will ultimately make the industry more responsive to consumers and provide for greater user choice. This will further ensure more innovative and responsive providers. The Guild submits that it is important to allow market forces to shift license allocation to areas of need while helping the government to identify areas where ongoing market intervention may be required (i.e. in remote and regional areas). However, clear direction and planning is necessary as there are inherent risks with uncapping markets. For instance, provider failure will significantly impact residents already in care.

The Guild submits that revisions to licensing for residential aged care places requires more focus and would ultimately need to be staged, while involving close consultation with the sector. This would allow for progressive industry rationalisation, thereby boosting viability and productivity in the sector. It would ensure that investment confidence in the sector is maintained and allow the industry to continue to enhance the quality of supply on offer. Again, this falls within the scope of the Commission's Inquiry and would benefit from an independent review of how this reform will be introduced.

Sustainable funding with increased consumer contributions

The Government introduced measures in the 2016/17 Budget that seek to restrict expenditure on aged care, in response to unforecasted growth in the sector.⁶ Combined with measures previously announced in the Mid-Year Economic and Fiscal Outlook, the Guild is now considering how to respond and adjust to a \$1.7 billion cut in funding over the forward estimates.⁷ This is a significant cut to the sector, one that cannot simply be absorbed or passed on, given restrictions with the existing funding arrangements. It is also indicative of the government's capacity to adequately fund the industry and forecast the growth and expenditure required.

In response to successive funding cuts, the Guild is now calling for the development of a sustainable funding strategy, including increased consumer contributions, as identified in the Commission's 2011 Inquiry Report and the Aged Care Sector Committee's Aged Care Roadmap. This would have the advantages of relieving budgetary pressures, enabling the industry to grow and provide for new beds, and ensure viable operating conditions for providers. At present, the Guild lacks confidence in the current funding arrangements and direction provided by government and is concerned that the growth and

⁵ Senator The Hon. Mitch Fifield, Speech to the Committee for Economic Development Australia, <<http://www.mitchfifield.com/Media/Speeches/tabid/71/articleType/ArticleView/articleId/836/Speech--CEDA--11-November-2014.aspx>>, 11 November 2014.

⁶ Department of Health, <<http://www.health.gov.au/internet/budget/publishing.nsf/Content/healthbudget1617-1>>, 3 May 2016.

⁷ The Hon. Scott Morrison MP and Sen. the Hon. Mathias Cormann, Mid-Year Fiscal and Economic Outlook 2015-16, <http://www.budget.gov.au/2015-16/content/myefo/download/MYEFO_2015-16_Final.pdf>, December 2015; Aged Care Guild, Media Release – Aged care budget cuts need to be reviewed, <<http://www.agedcareguild.com.au/Portals/6/Media&PolicyArticles/Budget%20release%20180516.pdf>>, 18 May 2016.

trajectory of the sector is already being compromised to the extent that the requirement for an additional 76,000 beds by 2023-24, as forecasted by the Aged Care Financing Authority, will simply not be met.⁸

The Commonwealth Government controls funding in the residential aged care sector and does so within a limited budget, which is influenced by incorrect forecasts. The Guild submits that ACFI is manifestly inadequate and is also not being fully utilised by government to alleviate the true costs of care by drawing on further contributions from consumers. The Commission should consider whether improvements to consumers' experiences may involve greater financial contributions. There is scope within the Instrument to do this and so allow providers to adequately meet the costs of care and continue to expand and improve the residential aged care sector. This would also allow for variations in care models, which are now quite prescriptive under the Act, and for providers to innovate and improve their services by offering more to consumers.

Ultimately, consumers will dictate what they are prepared to pay and the market will correct this over time. It is also important that consumer choice is offered in an institutional setting, to contain costs and ensure competitive neutrality in this sense. Until the sector can be sure of a predictable public contribution to future care needs, matched by a properly means tested private contribution, the investment environment to ensure future demand is met will also not be apparent.

The Guild submits that introducing competition and contestability into residential aged care will ultimately allow the market to dictate a reasonable price. The Government has the capacity to allow for more consumer funding but has not chosen to do so, despite successive budget cuts to residential aged care. The Guild is looking to the Commission to progress this debate and consider whether the current financial arrangements allow for adequate user choice and for providers to delivered improved consumer experiences.

Competitive neutrality

The Guild notes that cost differentials exist within the residential aged care sector between private providers and the not-for-profit and charitable/faith-based sectors. These providers benefit from being able to offer salary packaging options to employees, who also benefit from fringe benefits tax concessions. In addition to this competitive advantage, as part of the 2014/15 Budget, the government announced the removal of the Payroll Tax Supplement for private aged care providers, which existed to provide for a level playing field for all aged care providers. This measure came into effect on 1 January 2015.⁹

This decision contributes to an uneven playing field and makes it difficult for private providers to compete for staff without cutting costs elsewhere. The Guild has engaged a third party provider to calculate the impact of this, which is approximately \$96.3 million per annum across all Guild members.¹⁰ In no way does this promote competition within the residential aged care sector. In an industry characterised by low returns, this is a significant loss of income which disadvantages the private sector.

The Guild submits that competitive neutrality in the aged care sector continues to suffer while the arrangements in relation to the Payroll Tax Supplement remain in place. The Commission might consider whether this is consistent with the intent of creating a competitive and contestable residential aged care market and how a more equitable and competitive market might be achieved.

⁸ See Aged Care Financing Authority, *Factors Influencing the Financial Performance of Residential Aged Care Providers*, <https://agedcare.health.gov.au/sites/g/files/net1426/f/documents/10_2015/factors_influencing_the_financial_performance_of_residential_aged_care_providers_-_accessible_pdf.pdf>, June 2015.

⁹ See Department of Health, Payroll Tax Supplement, <<https://agedcare.health.gov.au/overview/advice-to-the-aged-care-industry/payroll-tax-supplement>>, 16 January 2015.

¹⁰ This figure is based on data supplied by Guild members and compiled by an independent third party provider.

Collectively, Guild providers' payroll tax liability for the 1 January 2016 to 31 March 2016 quarter was \$24,090,006, i.e. in the order of \$96.3 million per annum.

2. Improving user-choice and consumers' experiences

Transitioning to consumer-directed care

A successful transition to consumer-directed care (CDC) will become fundamental to consumers' interactions with the aged care sector in the near future. CDC, where funding follows the consumer, so that they might be afforded more flexible choices to better suit their needs and requirements, will require a significant adjustment by providers and an analysis of how this will work in practice. Key concerns remain:

- How will this transition occur and what support will be afforded to consumers and providers?
- How will providers mitigate the effects that this will have on their income mix and administration?
- Who is the 'consumer' and how and by whom will they be advised? The My Aged Care portal is not adequate in its current state.
- Will this create an industry of placement services/advisers?
- How will industry adapt and will there be adequate lead in? This will require a significant adjustment by the residential sector and the ramifications of failure or significant delays are too serious to be allowed to play out. Perhaps a phased transition is more appropriate.
- Should the market be afforded greater freedom to be able to competitively respond to CDC? This goes hand in hand with access to additional consumer contributions.
- CDC will be introduced to homecare from February 2017, which would allow the Commission to contrast the homecare rollout with its impending introduction to residential care.

The Guild submits that an independent analysis of the transition to CDC is required and that the second stage of the Commission's Inquiry is an appropriate forum to consider the mechanisms through which this should occur. CDC will be beneficial to consumers' experiences with residential aged care and, with the deregulation of supply and access to additional consumer funding, will encourage further competition and contestability. However, beyond a commitment to the broad concept, independent input on how this will come about would be welcomed by the sector.

Improving consumers' choice through their interactions with the aged care system

The Commission is well placed to review consumers' capacity to access information and make informed choices through their interactions with the residential aged care system. Consumers navigate the system with a very low knowledge level and so are reliant on the few sources of information available to assist with their decision making, which usually happens in a short space of time. Since the Commission's 2011 Inquiry Report, the Commonwealth Government has launched the My Aged Care portal as an information source and tool to link consumers with providers and support services.¹¹ The portal allows consumers to make decisions with a certain degree of choice and base-level of understanding.

However, the My Aged Care portal might benefit from an independent critique as its current operation are not without drawbacks. The operability of this portal and information available through it is limited and in no way ready to cope with the complexities of CDC. So much so that listing sites fill gaps where the My Aged Care portal is lacking in content and operability. Further, the Australian Aged Care Quality Agency will soon be introducing Consumer Focussed Reporting. The Guild has some reservations about this (while supporting it in principle) and feels that it would benefit from independent input.

User choice is largely effected by the advice offered through the My Aged Care portal, independent listing sites, placement services and also specialist aged care financial advisers. This warrants a closer look as there are significant gaps in the market and it is crucial that consumers and future residents are provided with accurate, easily navigable and clear advice about the choices available to them in residential aged care.

¹¹ My Aged Care, <<http://www.myagedcare.gov.au/>>, accessed 22 July 2016.

Conclusions

Thank you for the opportunity to submit our views on the scope for considering the residential aged care sector as well suited to further investigation and reforms involving increased competition, contestability and user choice, within the context of the Human Services Inquiry.

As detailed above, this Inquiry comes at an ideal juncture. The Guild submits that it is appropriate and timely that the Productivity Commission again review the need for policy reform in the residential aged care sector. The Guild would look forward to the opportunity to contribute further and expand on our views in the second stage of the Inquiry.

Please find attached a copy of the report *Australia's aged care sector: economic contribution and future directions*. The Guild commissioned Deloitte Access Economics to compile this report, which might now assist with the Commission's knowledge of the sector. The report found that, in 2014-15, the aged care sector's total economic contribution to Australia was \$17.6 billion, equal to approximately 1.1% of GDP, 277,500 FTE jobs and to 2.8% of the labour force. It further highlights that while the 2016/17 Budget committed \$17.8 billion to support aged care services, The Treasury's *Intergenerational Report* forecasts that public expenditure on aged care is expected to double as a share of the economy by 2055.¹²

As a clearly defined responsibility of the Commonwealth, it is therefore appropriate that the Commission consider the future of the residential aged care sector. As demonstrated by the 2011 Inquiry Report, the benefits to the public and consumers would make a focus on residential aged care well worthwhile.

Yours faithfully

Cameron O'Reilly
Chief Executive Officer

Att. Deloitte Access Economics, *Australia's aged care sector: economic contribution and future directions*, June 2016.

¹² The Treasury, 2015 Intergenerational Report, <<http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/2015-Intergenerational-Report>>, 5 March 2015.