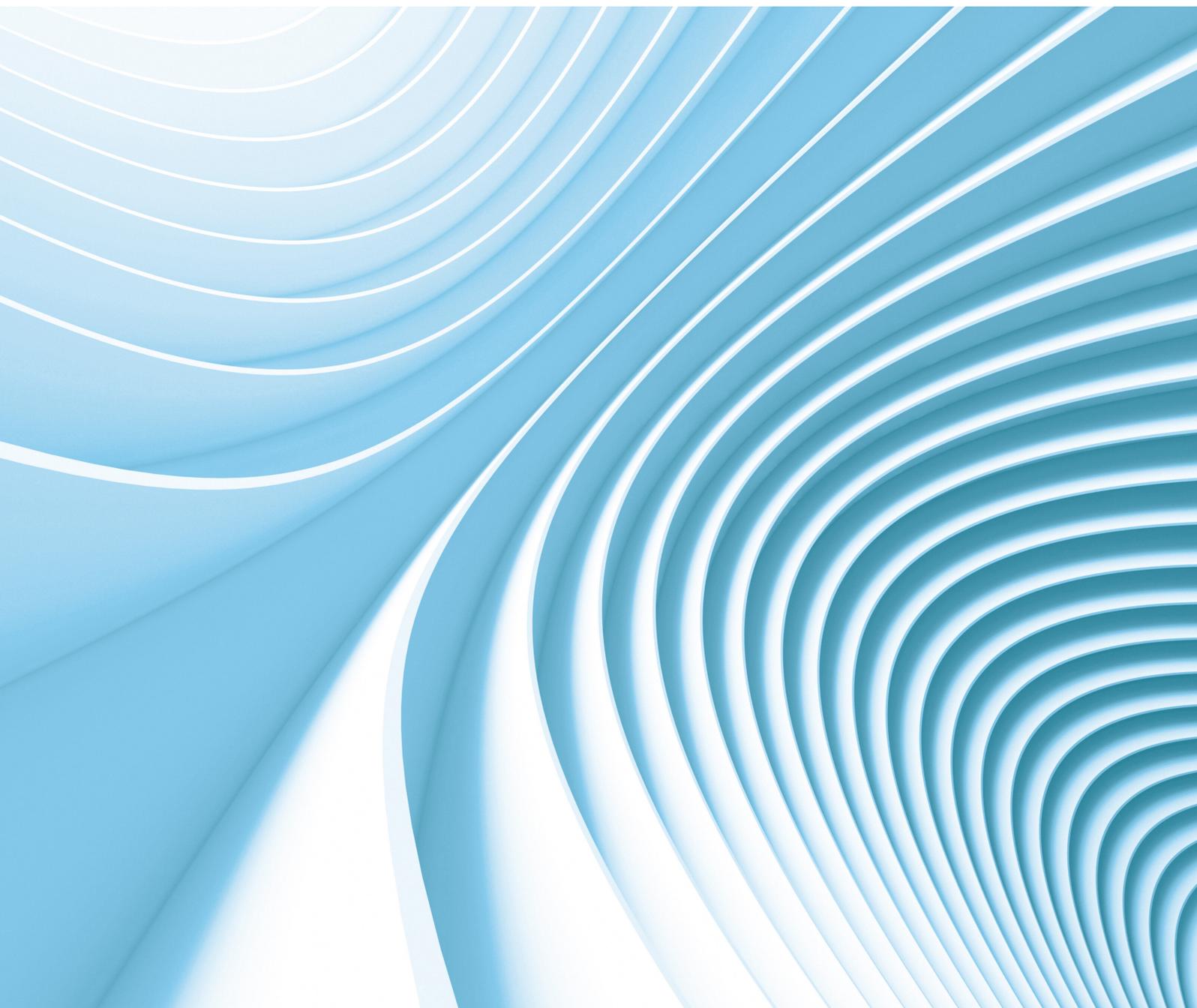




# **Aged care employment**

## Study report

### Overview



**The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.**

## **The Productivity Commission**

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

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## Foreword

The aged care sector is at a critical juncture. The broad suite of reforms in train for the sector have the potential to make a meaningful difference to the quality of life of older Australians. Reforms that are related to addressing workforce challenges are an integral part of being able to deliver on this goal.

It is within this context that the Productivity Commission was asked to examine the relative merits of a policy that would require aged care providers to preference the 'direct' employment of aged care workers. This study examines the implications of such a policy for aged care consumers, workers and providers respectively.

In undertaking this study, the Commission has benefited from strong engagement from a wide range of stakeholders including consumer groups, aged care workers and their representatives, and aged care providers and other businesses involved in the sector. We particularly thank those who took the time to meet with us, provided written submissions and gave us access to unpublished data.

This study would not have been possible without the assistance of the Department of Health and Aged Care and the Aged Care Quality and Safety Commission.

We would also like to express our appreciation to Jane Melanie, who led the study, and the team: Meredith Baker, Peter Bon, Rachel Burgess, Angela Le, Shaun McMahon, Vivikth Narayanan, Anthony Shomos, George Steel and Danielle Venn; and to Jenny Price, Sarah Crawford and Karen Godfrey for administrative support.

Catherine de Fontenay  
Commissioner

Martin Stokie  
Commissioner

Paul Lindwall  
Commissioner

October 2022



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# Overview

## Key points

- \* **It is widely recognised that there are major problems in the quality of aged care, especially in residential aged care. There are many reasons for this, but there is little persuasive evidence that a policy to preference direct employment would improve outcomes. It could indeed worsen outcomes.**
- \* **Direct employment is already by far the most common mode of employment in the aged care sector.**
  - Agency workers and independent contractors account for less than 4 per cent of the care workforce (personal care workers, nurses and allied health workers).
  - The scope for any gains from a policy to preference direct employment therefore needs to be kept in perspective.
- \* **In the context of the chronic staff shortages facing the sector, a policy to restrict agency work is not a realistic option.**
  - Where agency workers are used by approved providers of residential and home care, it is typically as a last resort for filling short-term staffing gaps or vacancies that cannot be filled otherwise, particularly in remote areas where workforce pressures are most acute.
  - Independent contractors in residential care are used mainly for accessing specialist skills.
- \* **The use of independent contractors in home care — often through digital care platforms that connect workers directly with consumers — is growing from a very small base as more older Australians express a preference to self-manage their government-funded care package.**
  - This attests to the benefits derived by individual consumers (and their families) and individual workers who are choosing this form of work over more traditional employment.
- \* **Many older Australians highly value the choice and agency that this model provides, as well as the bespoke nature of the service offerings from platforms that cater for diverse needs.**
  - In many cases this is allowing them to fulfil an aspiration to stay in their own home for as long as possible.
- \* **Equally, many platform workers highly value the flexibility, autonomy and the potential for higher pay associated with independent contracting — all of which add to their job satisfaction and help keep them in the sector.**
- \* **Given these benefits, there is a role for platforms as part of the solution for the future of work in aged care.**
  - This model works particularly well for the delivery of lower-risk care services to older Australians who have the requisite abilities and support to exercise choice and control over their care.
- \* **Instead of focusing on employment models per se, the Government should expedite the suite of reforms to increase safety and quality that are currently planned or underway.**
  - These are likely to be more effective at managing the risks inherent in the delivery of aged care services, irrespective of employment models.
- \* **Issues that go beyond aged care, such as the protection of workers in the gig economy, are best addressed through an economy-wide lens.**

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## 1. About this study

Quality aged care is critical to the wellbeing of older Australians, their families, and their communities. It is widely acknowledged that a quality aged care experience cannot be separated from the people who deliver that care.

The aged care workforce comprises close to 435 000 workers — mostly personal care workers and nurses. This workforce is already under significant pressure, with the COVID-19 pandemic imposing unprecedented costs and absences on the sector.

Many recent reviews have diagnosed a plethora of issues that have made the sector a comparatively unattractive and difficult place to work. The sector has struggled to attract and retain enough staff to keep pace with the demand for care and support services as the number of Australians aged over 65 years has continued to grow. The past few years have seen the expansion of home care in particular, as more older Australians choose to live at home for as long as feasible.

Based on the current trajectory, various projections point to an increase in this shortfall of care workers over the coming decades. This is a reflection of Australia's ageing population as well as reinforcing factors including changes in policy settings (such as increases in staffing ratios), increasing competition for workers in other care sectors (such as disability and mental health), and the declining propensity to provide informal care.<sup>1</sup> These forces may be compounded by constraints on funding by governments.

This study's main task is to *examine employment models in aged care, and the effects that policies and procedures to preference the direct employment of aged care workers would have on the sector*. The study stems from recommendation 87 of the Royal Commission into Aged Care Quality and Safety (the Royal Commission) that approved providers be required to preference direct employment of workers engaged to provide *personal care* and *nursing services*. The recommendation appears intended to assuage concerns that indirect employment could erode the quality of care, accountability for the care provided, and pay and conditions for workers.

In responding to the Royal Commission's final report in 2021, the previous Government determined that this recommendation required further examination.

While recommendation 87 referred explicitly to 'direct employment', this term (or 'indirect employment') is not used or defined in the *Fair Work Act 2009 (Cth)*. For the purposes of this study, the Productivity Commission has interpreted the term 'direct employment' to apply only to employees directly employed by aged care providers on a permanent, fixed term or casual basis. Under this definition, labour hire, independent contracting and platform work are all categorised as 'indirect employment'.

Likewise, what it means to have a policy 'to preference' direct employment is not specified. In practical terms, it could entail a mandated upper limit on the share of indirect employment for approved providers and other businesses operating in the sector.

In undertaking this study, the Commission has taken into account the broad suite of reforms to Australia's aged care system that are currently planned or underway. Of note is the planned Aged Care Act, which will establish the purpose of government-funded aged care as: ensuring that older Australians have a universal right to high-quality, safe and timely care and support.

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<sup>1</sup> In addition to this study, the Commission has been tasked with an inquiry to examine support for informal carers of older Australians.

Within this broader context, the study has sought to identify the main pros and cons of indirect employment, importantly from the perspectives of older Australians, but also from the perspectives of aged care workers and businesses (figure 1 summarises the key issues considered in the report).

In doing so, the Commission has strived to go beyond anecdotal evidence. However, data limitations have made it difficult to undertake a systematic examination of the relationship between employment models and outcomes in aged care. This has led the Commission to consult widely and place a large onus on stakeholders to demonstrate the feasibility and relative merits of a policy to preference direct employment.

**Figure 1 – Preferring direct employment: key considerations**

Consumers	Workers	Businesses
 <p><i>Recipients of government-subsidised residential or home care</i></p> <p>Key dimensions of impact on consumers:</p> <ul style="list-style-type: none"> <li>• quality and continuity of care</li> <li>• cost of care</li> <li>• choice of providers and services</li> <li>• control over delivery of care</li> <li>• accountability and oversight over care.</li> </ul>	 <p><i>Nurses and personal care workers, including employees and independent contractors</i></p> <p>Key dimensions of impact on workers:</p> <ul style="list-style-type: none"> <li>• job security, flexibility and autonomy</li> <li>• wages and working conditions</li> <li>• payment of superannuation, tax and workers compensation</li> <li>• training and skill development</li> <li>• workplace health and safety.</li> </ul>	 <p><i>Approved providers of residential and home care, labour hire agencies and platforms</i></p> <p>Key dimensions of impact on businesses:</p> <ul style="list-style-type: none"> <li>• costs of engaging workers</li> <li>• flexibility in sourcing workers</li> <li>• ability to cover absences or short-term staffing needs</li> <li>• ability to meet consumer demand</li> <li>• accountability and oversight for care, and workplace health and safety.</li> </ul>

## 2. Indirect employment in aged care

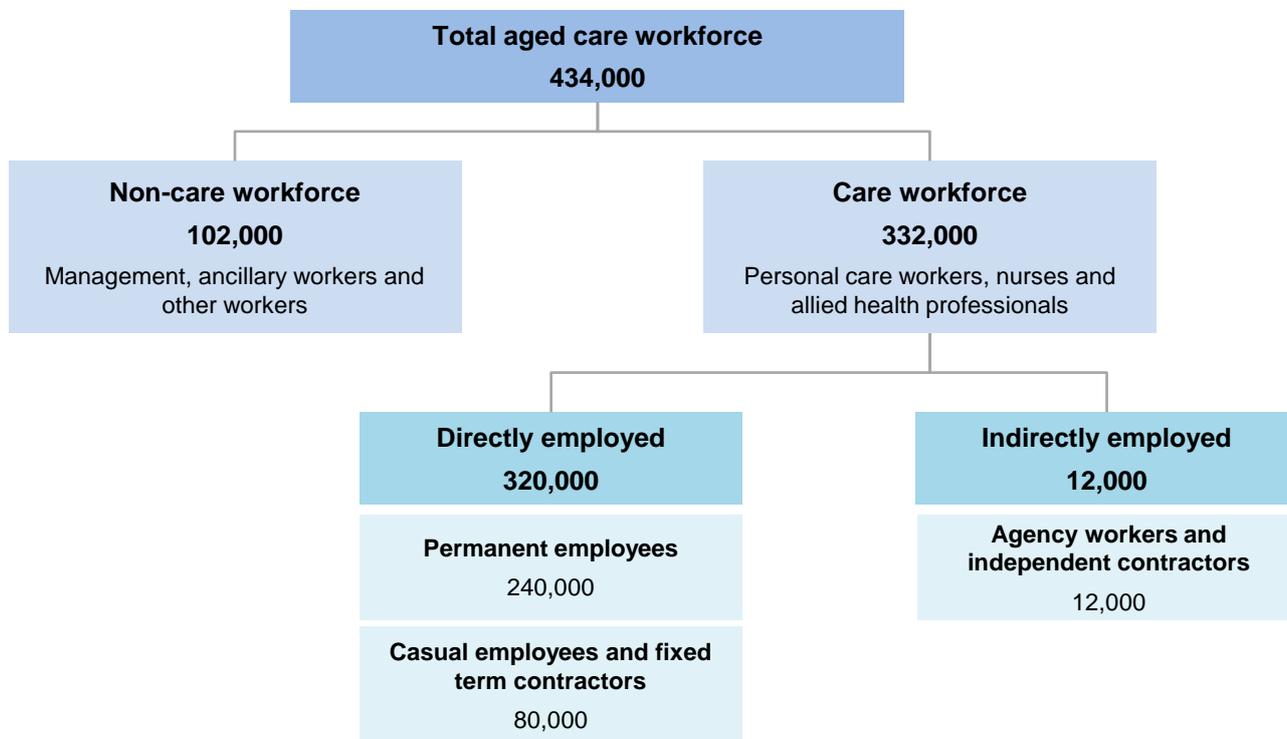
The data available to the Commission suggest that, by and large, aged care providers and workers already have a preference for direct employment, with over 96 per cent of the care workforce (personal care workers, nurses and allied health workers) directly engaged as permanent employees (mostly part-time), casual employees or fixed term contractors (figure 2a). It is therefore hard to see how further preferring direct employment will improve care outcomes for older Australians or the employment outcomes for this significant cohort of the care workforce. It also implies that, for such a policy to be binding, it would essentially need to involve a prohibition on the use of indirect employment.

Agency workers and independent contractors — about 4 per cent of the care workforce — mainly work in residential care, and most are allied health workers with specialist skills (such as physiotherapists and dental hygienists) (figure 2b).

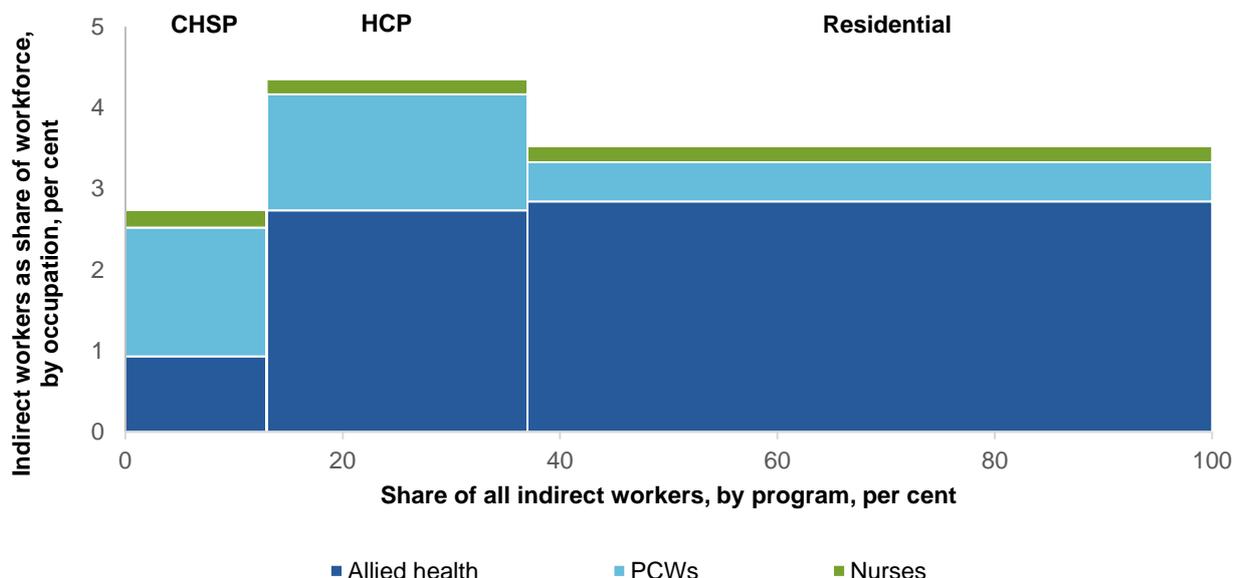
Even though agency workers and independent contractors make up a small share of the workforce, they play a well-established and important role in the delivery of aged care services. Agency workers are often used to cover short-term staff absences and fill vacancies, particularly in residential care. The view that aged care facilities cannot operate without the flexibility afforded by agency work is widely held amongst stakeholders.

**Figure 2 – The share of indirect employment is small<sup>a</sup>**

a) Number of workers in the aged care sector, by worker and employment type, 2020



b) Composition of indirectly employed care workers by occupation and program, 2020



a. CHSP is the Commonwealth Home Support Program and HCP is the Home Care Packages Program. PCW stands for personal care worker.

Agency workers are also particularly beneficial in regional and remote areas where the demand for care services is dispersed and workers may be difficult to source locally.

Given that it is not feasible to proscribe the use of agency workers and independent contractors in residential care, this study has focused primarily on independent contractors in home care. Of the 1.4 million people receiving government-subsidised aged care, the majority (76 per cent) live at home and receive either entry-level care through the Commonwealth Home Support Program (CHSP) or structured home care through the Home Care Packages (HCP) Program.

Various data sources suggest that the use of agency staff and independent contractors in home care is similarly small and relatively more common in the provision of non-care services, such as gardening, home maintenance and cooking.

Building on the approach in the disability services sector, the advent of self-managed home care has encouraged the entry of digital care platforms. While the exact number of platforms currently operating in aged care is not clear, these platforms make their services available to the 6 per cent of HCP consumers that self-manage.<sup>2</sup> Platforms can also service aged care providers, though this is less common.

There is partial evidence to suggest that platforms for care services are becoming more popular, attesting to their value to consumers. One high-profile platform in the disability and aged care sector has reported an increasing worker base. In aged care, these platforms are particularly appealing to older Australians living at home and choosing to self-manage their care needs. While platforms currently make up a small share of the market, their coverage is likely to grow with greater consumer awareness and a growing demand for home care.

### **3. Consumer perspectives**

A policy to preference direct employment would reduce the care options for older Australians who are seeking to self-manage their care needs at home. Independent contracting through platforms works particularly well for older people with lower care needs and good cognitive abilities, some level of digital literacy, and ideally some family or community support.

With growing demand for aged care services, greater diversity among care recipients, and a greater aspiration for independent living and individualised care, the delivery of home care is not and should not be one-size-fits-all. Consumer groups expressed a strong preference for an aged care system that offers older Australians choice and control over their care. They saw individual agency as a critical dimension of care quality and wellbeing, particularly when safeguarded by proportionate quality assurance.

While there is broad consensus that relationships and continuity of care matter in aged care, there is less agreement that these can only be achieved through direct employment, at least in home care. Indirect employment, such as work facilitated via platforms, has a lot to offer to consumers who choose to self-manage their home care.

Continuity of care can be achieved through long-lasting relationships built on rapport between the care recipient and the care worker, as well as through access to a more diverse workforce that is better able to meet the needs and preferences of people with different life experiences, personal characteristics and identities. Meeting these diverse needs is more challenging with prescriptive models of service provision.

It can also be achieved through community-led solutions that draw on local residents as independent contractors, particularly in regional and remote settings where traditional home care providers may not have the scale to be viable.

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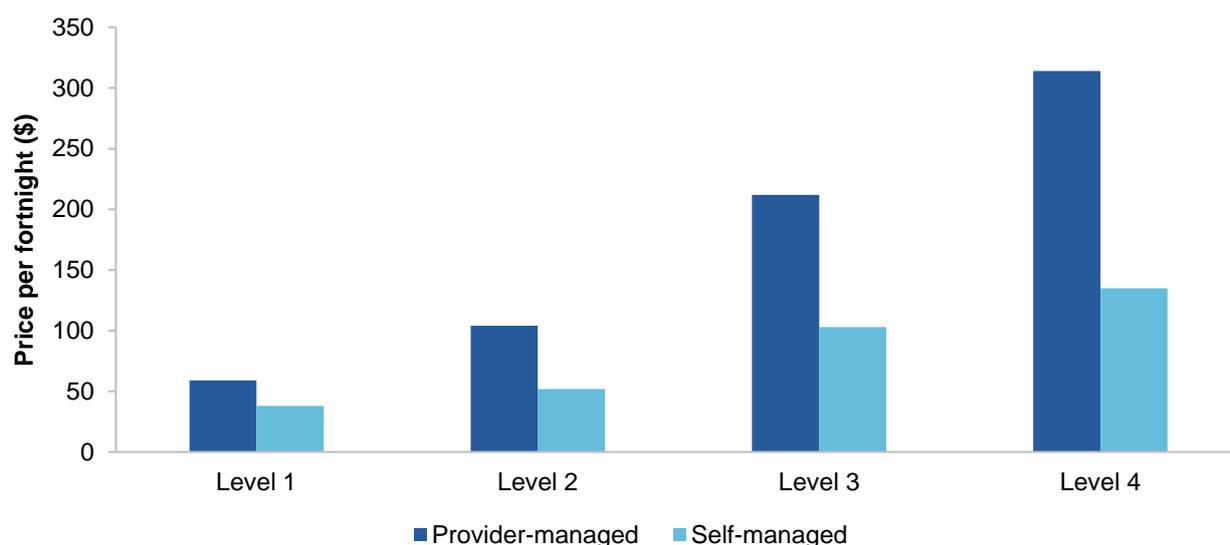
<sup>2</sup> The Commission is aware of at least six platforms engaged in the subsidised home care market: Care.com, Careseekers, Findacarer.com, Five Good Friends, Like Family and Mable.

Maintaining connections with the community more generally is important to many older Australians who value a sense of belonging. These include Aboriginal and Torres Strait Islander people with strong ties to their community and for whom quality care is one that also needs to be culturally appropriate. It is also relevant to other cohorts of older Australians with specific needs such as those who identify with a particular LGBTI status or have a culturally and linguistically diverse background.

Another motivation leading consumers to self-manage their home care and engage workers directly through platforms is to get more care hours out of their care budget. Across all home care package levels, the median fortnightly price of care management is significantly higher in fully provider-managed packages relative to self-managed arrangements (figure 3). This means that a fixed home care budget can go further in terms of obtaining more hours of care. As such, any policy that makes self-management harder would come at a cost to those seeking to get the most out of their limited care budget while being able to make decisions about their own care.

### Figure 3 – Self-managing a Home Care Package costs less<sup>a</sup>

Price per fortnight for care management at each HCP level, 30 June 2022



a. Providers are responsible for care coordination services, and typically charge care management fees for this service to consumers. Where a consumer chooses to self-manage, the provider is still responsible for the oversight of any services delivered and continues to undertake a range of activities to meet this responsibility. As such, care management fees are still charged to self-managing consumers, albeit at a lower level compared with provider-managed consumers.

## 4. Worker perspectives

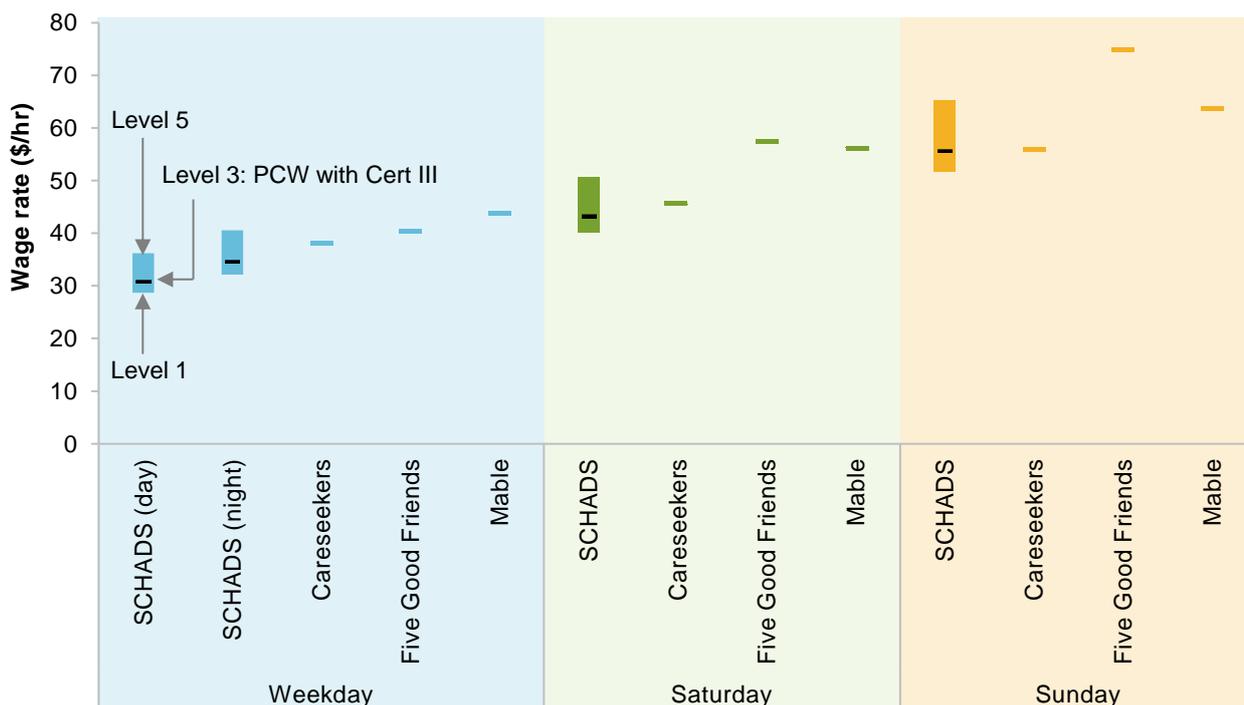
Only a small fraction of workers in aged care choose to work as independent contractors. A policy to preference or effectively mandate direct employment would most likely have negative implications for these workers. It might reduce the income earned by these workers, and even cause some to leave the sector.

There are many conjectures about the relative pay rates of directly employed staff and independent contractors. Data made available to the Commission suggest that the average rates paid to workers are typically higher than award minimum rates, at least for weekday and Saturday work (figure 4).

This pattern is also evident in the distribution of wage rates across all workers. For example, data from Mable (a major platform servicing both the aged care and disability sectors) reveal that the bulk of independent

contractors using its platform received levels of remuneration above the minimum SCHADS (Social, Community, Home Care and Disability Services) Industry Award rate for a casual employee (\$28.68 per hour, or \$31.69 inclusive of superannuation). In July 2022, 98 per cent of personal care workers who operate via the Mable platform received \$30 or more per hour net of platform fees, and 74 per cent received \$40 or more per hour net of platform fees during the week.

**Figure 4 – Most independent contractors are paid above the minimum award wage rate<sup>a,b</sup>**  
**Hourly pay rates for home care workers, July 2022**



**a.** Rates of pay under the SCHADS Award for casual employees, adjusted for penalty rates for shift and weekend work. Caution should be used when comparing actual pay rates (platforms) versus the SCHADS Award, as some employees might get paid more than the Award rate. The SCHADS Award pay rates also do not include allowances, or the 10.5 per cent employer superannuation contribution, which all adult casual employees are entitled to. SCHADS range is for home care workers from level 1 (entry level) to level 5 (care manager). Level 3 (black lines) represents the rate for personal care workers with Certificate III. **b.** All platform wage rates are net of fees. Platform rates are not comparable with each other. Mable rates are for ‘personal care workers’ in aged care and disability support who have at least a Certificate III or two years demonstrable work experience. Careseekers rate is for aged care workers only. The Five Good Friends rate is their *recommended* default rate for aged and disability care workers. Default rates might be different to actual average pay rates.

Moreover, given the shortages of workers in aged care, any independent contractor could choose to work as a direct employee. The fact that they do not suggests that their wages or some non-pecuniary benefits are important factors in their employment choices. In relation to the latter, work flexibility to fit around family commitments and lifestyle, independence and task diversity have been found to be important determinants of job satisfaction among aged care workers generally, and crucial for attracting and retaining workers in the sector. For many independent contractors engaged on digital care platforms, the ability to choose the customers they work for also adds to a sense of purpose and job satisfaction.

A policy to preference direct employment would make independent contractors who work in aged care worse off. It is therefore likely that such a policy would lead some workers to seek opportunities elsewhere, for instance in the disability support sector where there is no policy to preference direct employment.

There is indeed some evidence that independent contracting appeals to a group of workers who might otherwise not work in the sector. A recent survey of workers operating through the Mable platform found that 50 per cent were new to the care sector while 21 per cent indicated that they would not continue providing care and support services if they had to do so as an employee of a care organisation.

In a sector where worker attrition is already relatively high — with 75 per cent considering leaving the aged care sector within five years according to a recent survey — a policy to preference direct employment can be expected to exacerbate this situation. Such a policy would also not necessarily prove fruitful in improving conditions for aged care workers, whether directly employed or not, as it may simply lead to some workers leaving the sector, thus exacerbating staff shortages and the associated stress for all workers.

## 5. Business perspectives

As highlighted earlier, aged care providers generally prefer to keep service delivery in-house by directly employing most of their personal care workers and nurses. Akin to other service delivery areas, residential care providers use labour hire agencies sparingly, essentially to backfill staffing gaps (although staffing gaps have grown during the COVID-19 pandemic). Home care providers also use personal care workers and nurses who operate as independent contractors to supplement their workforce. While it is generally more costly for providers to use independent contractors than their own staff, contractors may be more cost-effective for care involving non-standard hours, substantial travel time and home visits of a short duration.

Digital care platforms provide one way for both providers and self-managed home care recipients to source independent contractors. Most platforms currently servicing the aged care sector fall into the 'indirect employment' category. They operate as intermediaries that solely facilitate the matching of independent contractors with providers or self-managed consumers.

A policy to preference direct employment would not only reduce the available labour pool in the sector, it would reduce the flexibility that providers have to manage intermittent and variable demand for care on a day-to-day basis.

Care needs can change quickly resulting in a sudden need for more intensive care or the transition of a client with very high care needs into residential care. In addition to using part-time and casual staff, independent contractors can give providers a flexible and cost-effective way to temporarily boost their capacity to address these fluctuations in service demand.

Access to independent contractors allows providers to meet bespoke service needs. Older people have diverse and evolving care needs. In many cases it is not viable for providers to directly employ workers with the full range of skills and backgrounds that consumers may require at different points in time and in different locations. An important justification for using independent contractors is to be able to source workers with specialised skills that are only needed for a small number of service hours across a consumer base – a case in point is that 37 per cent of allied health workers in the aged care sector are agency workers/independent contractors. This is applicable not only in regional and remote areas with fewer and/or more widely dispersed consumers, but also in metropolitan areas where access to specialists is costly.

In a similar vein, independent contractors allow providers to service markets where they do not have an established presence. There is at least one example of a registered provider, Country Home Services, which relies exclusively on independent contractors to service its consumer bases in regional and remote South Australia. The case study of the town of Bell is another example. Residents of the small Queensland town had little access to home care services as significant travel time limited the ability of non-local providers to service the town with their own staff. By partnering with the digital care platform Mable, Trilogy Care was able to engage local residents as independent contractors and support them in delivering home care services to the town.

In these contexts, a policy to preference direct employment could result in providers ceasing to service certain consumers and/or locations.

There is no doubt that the presence of independent contractors creates greater contestability for service quality and value. The platform model is challenging the status quo by giving older Australians more options in terms of care worker engagement, service offerings and pricing. In a sector that has traditionally underinvested in innovation and productivity-enhancing measures, the emergence of new business models has the potential to spur new approaches and incentivise improved service quality and value.

There is scope to do more in terms of enabling technology. The Commission heard from several providers about their investment in solutions to provide the service delivery flexibility that consumers increasingly expect (such as Montefiore's recent implementation of a digital workforce management system to automate rostering), but the use of technology across the sector as a whole is inconsistent and fragmented.

## **6. The way forward**

Having taken into account stakeholder views and considered the available evidence, the Commission's overall assessment is that adopting a policy to further preference direct employment would be adverse to the interests of older Australians, workers and providers, particularly under current tight labour market conditions.

A focus on indirect employment also comes with a high risk of distracting from the more important challenges facing the sector.

Rather than mandating a preference for direct employment, the Government should expedite the broader aged care reform agenda, including those reforms that will attract and retain workers to the sector, better screen aged care workers, promote choice of home care options for older Australians, allow for improved oversight of home care services and workers, and ensure better protections and support for all workers including independent contractors in aged care.

These reforms are better targeted at managing the risks inherent in the delivery of aged care services regardless of the employment model.

The reforms range from a new Aged Care Act to a fundamental re-think of the regulatory framework to better align regulation with the proportionality of risk and better-quality indicators to measure performance and help inform consumers.

Given that the quality and safety of care essentially comes down to the care provided by an individual personal care worker or nurse, a risk-based approach to regulation should encompass individual workers, as well as providers. The new code of conduct for aged care workers, which came into effect in August 2022, will extend regulatory oversight to the individual worker (including independent contractors), as well as to the aged care provider. Further, the planned worker registration system can also be expected to provide additional reinforcement to the protection of aged care consumers.

Ultimately, confidence in the effectiveness of regulation is contingent on the effectiveness of the regulator. A sufficiently empowered and resourced regulator should be the central party responsible for evaluating and managing risk. The reforms recommended, planned or underway to improve the Aged Care Quality and Safety Commission (ACQSC) are among the most important to safeguard aged care quality and safety. The Government has recently announced a capability review of the ACQSC, which will inform the design of a new 'revitalised' regulator.

Done well, these reforms would provide the necessary safeguards without undermining the ability of older Australians to take reasonably controlled risks to maximise their quality of life.

## Findings and recommendation

### The use of indirect employment in aged care is already limited



#### Finding 2.1

**Most aged care consumers live at home and mainly receive domestic assistance and social support**

Of the approximately 1.4 million older Australians who receive some form of government-subsidised aged care, more than 75 per cent live at home and receive either entry-level care through the Commonwealth Home Support Program (CHSP) or structured home-based care through the Home Care Packages (HCP) Program. The bulk of home care service hours provided to consumers are for domestic assistance and social support. Clinical (allied health and nursing) and personal care services account for a fifth of CHSP hours and less than a third of HCP hours.



#### Finding 2.2

**Part-time employment is the norm for most care workers**

Although about three quarters of care workers are permanently employed, there are higher than average rates of part-time work (often with minimal guaranteed hours) in aged care compared with the overall health care and social assistance industry and the broader economy. The rate of casual employment is also higher than the average across the health care and social assistance industry and the broader economy.



#### Finding 2.3

**Notwithstanding data limitations, the share of indirect employment in aged care is estimated to be small**

Indirect employment through agency workers and independent contractors makes up a small share of the care workforce — less than 4 per cent. This share has remained relatively unchanged over the past five years. Most agency workers and independent contractors work in residential care, and most are allied health professionals.



#### Finding 2.4

##### Providers rely on the flexibility, specialised skills and additional capacity that agency workers and independent contractors provide

The use of labour hire agencies is a well-established practice in aged care. Agency workers are commonly used to address short-term absences and labour shortages, particularly in residential care. Aged care providers use independent contractors most frequently to obtain specialist skills. Some aged care facilities could not operate viably without the flexibility afforded by agency work and independent contractors.



#### Finding 2.5

##### Digital care platforms are likely to grow with the rise in home care

While digital care platforms in Australia are more established in the disability sector, these are also emerging in aged care primarily to service older Australians living at home and choosing to self-manage their care needs. Notwithstanding some variation across business models, platforms essentially connect consumers in need of care directly with personal care workers and nurses. While platforms currently make up a small share of the market, their coverage is likely to grow.

## Restricting indirect employment would be a retrograde step for older Australians



#### Finding 3

##### A policy that preferences direct employment would leave self-managing consumers worse off

Indirect employment models (such as those used by digital care platforms) offer several benefits to self-managing consumers, and these models work particularly well for older people with good cognitive abilities, lower support needs and some level of digital literacy and family/community support.

There appears to be a perceived lack of understanding or awareness by consumers that engage independent contractors that the provider (rather than the platform) is accountable for the safety and quality of care. However, robust complaints management policies, combined with ratings and reviews systems, help mitigate risks to consumers and provide an incentive for platform workers to deliver quality care.

A policy preferencing direct employment would lead to worse outcomes for those consumers who value choice and control over how their care is delivered. While the proportion of consumers engaging independent contractors is currently small, for them, such a restriction would:

- restrict consumer choice, autonomy, and control
- reduce access to personal care workers and nurses, particularly in regional and remote areas, and during worker shortages
- reduce access to a pool of workers who are better able to meet the diverse needs of consumers
- increase the cost of care and result in fewer hours of care for a given budget
- dampen the development of innovative services tailored to diverse consumer needs.

## Aged care workers value the option to work as independent contractors



### Finding 4

**Independent contractors can earn more than the award wage and preferencing direct employment would reduce workers' options**

Independent contracting offers workers a degree of autonomy and control over when, where and how they work. There is no evidence that workers are being 'forced' to engage as independent contractors in nursing and personal care jobs.

Independent contractors trade off sick leave, superannuation, training and insurance. However, most contractors engaged by consumers via digital platforms have rates of remuneration that are higher than award rates of pay and, in some cases, by a considerable margin. With widespread vacancies in the sector, independent contractors who are not satisfied with their earnings or conditions are likely to be able to find alternative work through more traditional employment arrangements.

From a worker perspective, preferencing direct employment would:

- reduce options and opportunities for some workers to engage in work that suits them
- limit opportunities for workers on low wages and/or hours to supplement their income.

In the current tight labour market, restricting indirect employment would also exacerbate labour shortages.

## Providers need the flexibility that indirect employment provides



### Finding 5

**A policy to preference direct employment could undermine the provision of consumer directed care**

Nurses and personal care workers who operate as independent contractors are a small but important part of the home care market. It is generally more cost effective for providers to employ their personal care and nursing staff. However, independent contractors may provide a lower cost labour source to deliver care that involves non-standard hours, substantial travel time and/or a short visit.

While providers are responsible for the quality and safety of care delivered on their behalf, there is concern that some have inadequate oversight of independent contractors, particularly where they are engaged by self-managed consumers. However, it is not evident that preferencing direct employment would improve this. Overall, restricting the use of independent contractors would:

- constrain providers' flexibility to manage day-to-day fluctuations in demand and service diverse consumer needs
- reduce the size and capability of the workforce
- weaken market incentives to improve service quality and value.

## The focus should be on expediting the broad reform agenda



### Finding 6

#### A risk-based approach to regulation

Older Australians highly value the ability to make decisions about how their care needs are met. The principles underpinning the proposed new regulatory framework for aged care (released by the Department of Health in February 2022) are promising because they focus attention on addressing risks, in a proportionate way, while not unduly restricting older Australians' options for care.



### Recommendation

#### A policy to preference direct employment would be detrimental

The Australian Government should not introduce a policy to preference direct employment in aged care as it would reduce choice and options for care for older Australians, and at the same time, limit the options for care workers who value self-employment and flexible work arrangements. Worse, it could — given the current tight labour market — lead to a smaller aged care workforce, to the detriment of care outcomes.

The Australian Government should instead expedite the broad reform agenda for aged care to enhance quality and manage any specific risks from indirect employment through a risk-proportionate regulatory framework. In doing so, it should ensure that the development of quality standards and indicators for home care are not unduly delayed.