

Submission to Productivity Commission: Caring for Older Australians

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The Aged Rights Advocacy Service Inc (ARAS) welcomes the opportunity to provide information to the Productivity Commission's Inquiry into *Caring for Older Australians*.

ARAS endorses the submission to the Productivity Commission from the National Aged Care Advocacy Program (NACAP) but seeks to add the South Australian perspective. As an organisation focused on promoting and protecting the rights of older people, this submission is related to two key questions posed by the Productivity Commission Issues Paper, "*Are the rights of aged care consumers adequately protected and understood? Are complaints and redress mechanisms accessible, sufficient and appropriate for all parties?*"

ARAS is an independent, rights based organisation that aims to promote and protect the rights and wellbeing of older people, and works towards social inclusion. Our consumers are amongst the most vulnerable in our society, with the majority being more than 75 years old.

ARAS has four programs, all of which are based on the rights and entitlements of the older person. Three of the four programs focus on the standard and quality of care being provided and cover the range of aged care service provision from community to residential care and, as follows:

- 1) **ARAS Residential Care Program (1990)**
 - ARAS began as the South Australian component of the National Aged Care Advocacy Program (NACAP), which is funded through the Commonwealth Government's Aged Care Quality Assurance framework. It was developed in response to an identified need and assists to demonstrate Australia's commitment to the rights of older people. Funding allows for 3 advocate positions for the state this financial year.
 - Our role is to assist people receiving aged care services or their representatives to resolve problems or complaints in relation to the following aged care services:
 - ❖ Aged care facilities both low and high care,
 - ❖ Community Aged Care Packages (CACPs),

- ❖ Extended Aged Care at Home (EACH) Packages or
- ❖ EACH Dementia (EACH-D).

2) **ARAS Community Care Program** (1991)

ARAS also assists older people using Community Services funded by the Home and Community Care (HACC) Program where they have a problem with the services being provided. Funding allows for 2 advocate positions for this program for the state.

3) **ARAS Aboriginal Advocacy Program** (2003)

The ARAS Aboriginal Advocacy Program is funded by HACC and works with older Aboriginal people (+50 years), providing information about their rights as consumers of aged care services and improving their access to those services, as well as assisting them to resolve problems in relation to aged care services. Aged care services relate to mainstream and those specific to older Aboriginal people. This program is in collaboration with the Council of Aboriginal Elders SA. We recently received funding for an additional Aboriginal advocate so we now have a team of 2 advocates for the state. ARAS also uses some of the HACC advocates position to support this program. We have recently been successful with an application to the Proceeds of Crime Act 2002 funding for a project to build the capacity of 3 Aboriginal communities to deal with abuse of the Elders.

4) **ARAS Abuse Prevention Program** (1997). This program is available to a broader client group of older people, however the client group is mainly frailer older people who are eligible for aged care services.

The ARAS Abuse Prevention Program works with older people who are at risk of, or experiencing, abuse by family and friends, or someone they should be able to trust. ARAS aims to assist the older person or their representative to put strategies in place that will minimise or stop the risk of further abuse. Funding is provided by HACC and Department of Families and Communities (DFC) and allows for 3 advocates for the state. We received additional funding from DFC to implement the State Government Our Actions for the Prevention of Abuse of Older People plan in 2008-2009.

All ARAS programs are State-wide and provide access to special needs groups including people in regional and remote areas and those from Culturally and Linguistically Divers communities. We can contribute an expertise and depth of understanding of the consumers perspective of their interaction with the aged care system, through our extensive contact with consumers and the aged care system over many years.

ARAS assists older people receiving aged care services to be aware of and exercise their rights, with many reluctant or unable to raise complaints without such support.

We also assist older people who are at risk of abuse by family or friends, to prevent further abuse.

ARAS provides:

- Information about the rights and responsibilities of older people who are consumers/recipients of aged care services
- Support to older people and their representatives:
 - to be involved in decision making about their quality of care and quality of life in aged residential care facilities and while receiving community aged care services
 - to raise and pursue problems or complaints in relation to aged care services
 - to participate in providing feedback about their level of satisfaction with the services they receive
 - to participate in consumer/resident groups
- Assistance to older people or their representatives to speak for themselves or we will represent them on request
- Strategies to assist older people to safeguard themselves where they are at risk of abuse by someone they should be able to trust
- Information and education sessions about rights and responsibilities, abuse prevention and the role of ARAS
- Assistance with policy enhancement or development to ensure that consumer rights are upheld.

Advocacy involves protecting the rights of consumers and the quality of care and services they use. This is achieved through speaking, acting or writing on behalf of people unable to exercise their choices, rights and responsibilities on their own.

The four ARAS programs provided the following services in 2009-2010:

- Advocacy support to 1559 individuals
- Information about rights to 1089 individuals
- Education - 444 sessions to 11872 participants.

This places ARAS in the unique position of hearing the views of older people using aged care services and their representatives, on a wide range of issues that affect their quality of life and care. We also have great expertise about abuse of older people living in the community.

Data for the ARAS Residential Care Program (1 above funded by NACAP) alone from 2009-2010 indicates that advocates provided:

- advocacy support to 753 residents or their representatives to resolve problems or complaints about their quality of life and care, 88% of which were for residential care, 12% for Community Aged Care Packages

- information about rights to 351 individuals, and,
- 193 education sessions to almost 3,500 participants including 2,300 residents.

We have a high degree of satisfaction from our consumers. The high demand for ARAS advocacy indicates that it provides what consumers are seeking - a non-conflicted, independent voice for vulnerable older people, which supports them to resolve issues to their satisfaction. It also indicates that the rights of consumers are frequently impinged by service practices and need to be protected.

Are complaints and redress mechanisms accessible, sufficient and appropriate for all parties?

We noted that under section 5 “What role for regulation”, the National Aged Care Advocacy Program (NACAP) is not mentioned in the “range of quality assurance and consumer protection measures”. As the NACAP is funded through the Commonwealth Government’s Aged Care Quality Assurance framework this oversight should be corrected. The NACAP was established in response to a need to enhance the rights of consumers and has its legislative basis in the Aged Care Act 1997, (Part 5.5, Division 81 Section 1) and the Advocacy Grant Principles 1997.

The Review of the Aged Care Complaints Investigation Scheme (CIS) requested by the Minister for Ageing and conducted by Associate Professor Marilyn Walton, October 2009, noted that the NACAP received funding of \$2.582 million in 2009-2010 and in “2007-2008 dealt with over 9100 enquiries and cases (complaints) relating to the provision of services in residential and community care” (CACP and EACH). In the same period the NACAP also provided 1,302 education sessions to aged care consumers and staff. We may be a very small program in the scheme of things but we have a substantial impact.

The CIS review noted that “*The Department funds advocacy services which some other bodies do not, and that is to its credit particularly in the context of the vulnerability of care recipients*”.

ARAS will receive \$380,812 (GST inclusive) as its share of the NACAP 2010-2011 funding (\$2.582 million). As this funding has not kept in line with increases in costs we had to reduce our staffing in the residential aged care area and now only have 3 advocates to cover South Australia. At the same time we have seen the CIS budget grow to \$90 million with a further \$50.6 million over 4 years, as detailed in the aged care measures released after the April 2010 COAG meeting. The reduction in our staffing resources will impact on our ability to assist aged care consumers to protect their rights. The more contact we have with aged care consumers the more breaches of rights we encounter.

The recently released Review of the Aged Care Complaints Investigation Scheme (CIS), is critical of the current structure of the CIS and provides four alternative

models for its restructure. All of the proposed models recommend an assessment and early resolution stage, with multiple resolution options including “*assisted resolution through advocacy services*”. It was significant to see acknowledgement of the role that the NACAP can play in early resolution of complaints.

The CIS review noted that “*the advocacy groups are handling a substantial case load. The role of advocacy groups in early resolution is important and can provide complainants with support during local resolution. The advocacy groups are staffed by experienced professionals who have years of experience in advocacy and aged care*”. The current year by year funding of the NACAP is detrimental to keeping our experienced staff however, and we would advocate that the NACAP would benefit from tri-annual funding which applies to most other programs, and an increase in funding if the CIS is to refer more cases. The other three programs operated by ARAS receive three year recurrent funding from the HACC Program which enables some stability.

We support the proposed involvement of the NACAP in the early resolution stage. However there is a need to establish appropriate growth funding to enable increased access to advocacy as outlined in the CIS Review recommendations.

We would also advocate for expanding the NACAP funding in line with the increasing ageing population and broadening the consumer groups we could assist in line with a streamlined aged care system.

Are the rights of aged care consumers adequately protected and understood?

The ARAS advocates promote the rights of aged care consumers and the service ARAS provides including access to an independent advocate. Independence of advocacy is vital to the consumer, who relies on ARAS to be partisan in order to feel they have been heard and that we are on their side.

Consumers need to have easy access to advocacy services, which have been set up to provide information about their rights and to assist them to protect those rights. ARAS needs to promote the availability of the service to aged care consumers but in reality face a number of difficulties, including:

- Due to limited resources, we rely on aged care providers to distribute our brochures to their client group, both in community and residential care.
- In residential care the advocates visit metro and non metro facilities to meet with groups of residents on a roster basis – about once every two years. Face to face contact is important to frail older people and given the attrition rate for the client group and high turnover of staff, we believe this cycle is too long.
- Visits to non metro areas is more expensive and resource intensive, and therefore visits are not always able to be completed even in a two year cycle.

If additional resources were provided for residential care advocacy we could do more work in assisting residents and their representatives to understand their rights, have a voice and be consulted about their quality of life and care services, and provide education. For example we could:

- have a regular visiting schedule where we could meet with residents and their representatives on a more frequent basis than is currently the case. We are also frequently approached by individuals who want to discuss an issue with us after our attendance at the resident group meetings, highlighting the relevance of providing information face to face. This may not have occurred had we not been there in person. When this occurs the advocates take up the complaint and deal with it there and then. This is very satisfactory to our consumer group, who may have been worrying about the issue for some time.
- provide information about their rights and entitlements
- provide education sessions to staff. There is currently quite a demand for the ARAS education session for residential aged care staff entitled “Taking action to prevent abuse”, and it would be desirable to increase its delivery. And,
- promote the Guidelines for Effective Resident Groups Kits that aim to assist residents and their representatives to have a voice and be consulted. The Kits are a recently completed collaborative project with the University of Adelaide and are to be distributed nationally. The Guidelines are to be available electronically, however we know from experience that the implementation rate will be enhanced by providing an information session with a hard copy kit. Resources dictate however that the number of sessions interstate will be limited.

We are often told that people wish they had known about ARAS when they were having a problem. However, we still have substantial numbers of clients seeking our assistance to resolve issues relating to the aged care service they receive, currently an average of 60 new cases per month relating to residential care alone.

When we provide advocacy assistance to a resident or their representative about a quality of care or service issue, we try to meet face to face as much is possible as this is often more satisfactory for the resident. It can also be more efficient for us as we can get agreement on what the issues are, have a look at any documents the consumer wants to show us and get agreement on what is to be discussed with the Director of Care. A meeting, with consumer involvement if that is their wish, is usually held with the Director of Care immediately following the meeting with the resident or their representative, and the matter resolved. Early resolution is very important to complainants as they are often anxious about the issue and concerned that it is impacting on their ongoing relationship with the management of the facility.

In Community Care it is more difficult to access the client group who are living in their own homes than in residential care. We rely heavily on aged care service providers to provide information about consumer rights to their consumer group,

including their right to access an independent advocate to assist them to raise complaints.

The recently released Community Care Charter 2009 does not provide consumers with information about their right to access independent advocacy services and therefore does not fully protect the rights of this consumer group. We provided input into the first draft which was clearly inappropriate on a number of fronts and were not provided with the opportunity to have input into the redraft, which is not up to the standard one would have expected. Given our contact with a wide range of consumers about consumer rights issues we would have anticipated some additional contact about the document. In the HACC program currently this right to an advocate is quite clearly addressed with an expectation in Objective 7 that HACC funded organisations ensure consumers know about their right to use an advocate and provide information about advocacy services and how to access them to the consumer group. It is incomprehensible why this right should now be diminished, particularly as the community care sector is set to grow and the Commonwealth is to take over responsibility from the States. Do people who receive CACP and EACH have lesser rights than those older people using HACC services? Why does this charter not reflect the regulations governing CACP and EACH? It is important that any guidelines developed around the Charter incorporate the requirement that consumers are advised of their right to an independent advocate. Consumers of community aged care services are often reluctant to speak up when this is a problem or complaint as they worry they will lose the aged care service and have to enter a residential care facility.

In South Australia recently we have had a number of high care residential facilities become Multi Purpose Services (MPS), leaving the residents without access to advocates from the National Aged Care Advocacy Program, information sessions about their rights or education for their staff. We have been informed that our ARAS HACC advocates could undertake this role but these advocates do not have knowledge and experience in the residential care area and we only have 2 HACC advocates for the state. Half of one of these positions is already dedicated to our ARAS Aboriginal Advocacy Program. Some states and territories do not have independent advocacy for HACC aged care consumers, and therefore consumers in MPS are without support to speak up, leaving their rights unprotected and certainly not understood..

Right to be consulted in residential care

The importance of a resident centred approach, which ensures that the experiences of residents are actively sought and integral to quality processes, is often stated. However the input of residents and their relatives is often not much more than rhetoric. Given the vulnerability and frailty of residents, it is unrealistic to expect them to provide feedback without some form of assistance to have their views heard.

In 2001 ARAS was involved in pro-actively seeking feedback from residents and their representatives in forums across 5 states for the Accreditation Working Group, established to examine lessons that could be learned from the first phase of the accreditation process. The forums provided an excellent opportunity to collectively seek the views of residents and their representatives about various aspects of the accreditation process. The feedback was well received by the Accreditation Working Group with changes to the accreditation process being made as a result. Facilities could be required to develop an Accreditation Consumer Consultation Strategy that clearly stated their procedures for involving residents and representatives in the Accreditation process. This could be a requirement of the audit and could provide direction for staff in the procedures to be followed and potentially achieve some consistency across facilities. With resources NACAP is well placed to assist facilities in this process.

The ARAS collaboration with the University of Adelaide to produce a 'Guidelines for Effective Resident Group Kit' aimed at improving how facilities consult with residents and their representatives could greatly assist in improving consultation with residents or their representatives. This will be distributed in 2010-2011.

Elder Abuse in the Community

Abuse of older Australians by someone they should be able to trust is a significant issue and it affects 1 in 20 people over the age of 65. The average age of clients for the ARAS Abuse Prevention Program (APP) is 79, with most clients being the more vulnerable frail older people and an average of 50 new cases per month. The APP data does not include older people living in residential care, as the ARAS Residential Care Team deals with instances of abuse of residents in Commonwealth subsidised aged care facilities, with physical and .sexual assault being reported to the CIS.

ARAS was funded to implement the State Government Our Actions for the Prevention of Abuse of Older South Australians plan and has undertaken numerous initiatives to raise awareness of this issue. This has resulted in increased demand:

- from individuals for assistance to overcome abuse situations and information about preventing abuse. The majority of clients for APP would be receiving aged care services.
- for awareness raising information and education sessions from community groups, staff of aged care and other relevant services
- for education sessions about how to respond to instances of abuse from service providers. ARAS has organised an annual conference for World Elder Abuse Awareness Day since 2006 in order to raise awareness of aged care service providers.

We are currently completing the South Australian Abuse Prevention Protocols for aged care service providers and finalising a DVD highlighting abuse case scenarios for use with groups of older people in order to raise awareness of this issue.

A number of states have recognised the issue of elder abuse and have put in place service responses. Some have not. It is time that Australia had a national agenda, albeit with local influences, in order to create efficiencies, and that each State or Territory provide a service response to older people at risk of abuse by someone they should be able to trust.

Retirement Villages

ARAS receives numerous calls from older people living in retirement villages who want support to make a complaint about the retirement village management or regulations. We are unable to support these people to deal with those issues through our current programs and this means there is no-one to assist them to exercise their rights as consumers of retirement villages. We can help retirement village residents with issues about care and services they receive from CACP, EACH or HACC, or if they are being abused by someone they should be able to trust. It would seem sensible to resource us to be a one stop shop for advocacy for individuals in retirement villages with concerns about the village regulations, particularly as we already have contact with them.

Thank you for the opportunity to provide input into the Productivity Commission Issues Paper.

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13th July 2010