

PRODUCTIVITY COMMISSION SUBMISSION

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Cam Ansell

Jim Toohey

About the authors

Cam Ansell is a well-known and widely respected consultant to the aged and retirement village sector who has assisted government on a number of enquiries into aged care and has a detailed knowledge of residential aged care financial viability issues via his involvement with an extensive industry survey.

Jim Toohey is a former long term CEO of one of the oldest and largest private sector residential aged care, retirement living and community care providers in Australia.

He has been appointed to a number of government committees and reviews in respect of residential aged care and retirement villages and is currently working as a consultant providing advice and assistance to the aged care sector.

Jim and Cam were invited to be a part of the Expert Advisory Panel requested by The Productivity Commission to provide further information into the issues under review.

Approach

Both contributors have drawn heavily on their direct experience over many years in operating, consulting and advising residential aged care and retirement village organisations.

The authors also have extensive experience in representing industry issues to the Commonwealth Government and the Department of Health and Ageing and various other stakeholder groups.

These contributions are made on behalf of the authors as individuals and are not necessarily reflective of any organisation's position they may have been associated with from time to time.

The following observations and recommendations are made in respect of the Terms of Reference set out in the Commissions Issues Paper of May 2010, submissions for major stakeholders and participation in the "Paying for Aged Care" Roundtable held in Canberra on 31 August 2010.

Introduction

The provision and funding of aged care in Australia is truly at a crossroads.

As virtually all submissions noted, the numbers of elderly Australians requiring quality residential and community care in the very near future represents an unprecedented increased level of demand with consequent unprecedented financial outlays.

The pressures of providing for these increased numbers and outlays however are compounded by the anticipated greatly enhanced expectations of future care recipients. The coming generations, relatively unaffected by the hardship and deprivation experienced by the current cohort of recipients, will undoubtedly reject the current lack of choice and flexibility created by overwhelming regulation focused on minimum standards, cost control and the avoidance of difficult political and economic realities.

Future care recipients, possessed of greater financial means and conditioned by more generous personal circumstances will demand far greater choice of options for receiving specialised aged care accommodation.

This paper draws upon the experience of the authors from an operational, financial and strategic perspective including their participation and involvement in analysis of some of the most extensive key performance indicator measurement for residential aged care ever undertaken. The paper also draws upon the hundreds of submissions received by the Commission and the authors participation in the "Paying for Aged Care" roundtable.

In the personal experience of the authors, the broad agreement on the key issues evidenced by major provider, consumer and staff representative submissions is unique in the last decade. Whilst providers have argued for some time that the issues of economic viability, flexibility and consumer choice are having real negative impacts on the sector now, it is also clearly evident that other stakeholder groups are now largely in agreement.

We have generally accepted these agreed positions as self-evidently correct where they are consistently and similarly described in major submissions with also similar recommendations **and** finally where our own personal experience is consistent with both.

We will focus on the largely agreed positions which appear to have broad stakeholder support and provide some further commentary and analysis before offering our own suggested strategies.

Capital Funding

Aged care providers have been critical of capital funding settings in residential aged care for many years.

The artificial distinction between high and low care and consequently different options for funding capital, the increased costs of constructing purpose-built, stand-alone modern aged care facilities, the impact of building certification, changing consumer choice and the lack of review and adjustments to these mechanisms for well over a decade has created some concerning trends which must finally be addressed.

These include;

1. An estimated 25,000 "phantom" beds i.e. places issued under ACAR over the last decade which have not converted to operational beds on the ground because of a lack of viable financing options
2. Rapidly diminished interest by existing providers and new entrants in competition for new places in annual ACAR rounds. Indeed, most regions and states have been undersubscribed in recent years.
3. An unprecedented situation where existing, well established and highly respected providers have surrendered places to the Commonwealth because they are unable to viably construct and operate them.

Whilst there was generally uniform support for equal accommodation payment options between both high and low care from providers, COTA, Alzheimer's Australia and the National Seniors all endorse an overhaul of the existing system. While some did not explicitly endorse accommodation bonds in high care as part of the solution, most emphasised the lack of choice and flexibility for residents and providers in accessing the most appropriate capital funding options to meet the needs of the future.

The major consumer representative submissions also acknowledged that such a review needed to encompass the prospect of consumers assuming greater direct financial responsibility for accommodation costs.

There also appeared to be uniform support for "unbundling" the cost of accommodation and non-care services from the funding of direct care provision and providing different mechanisms and choices to meet each.

Virtually all submissions acknowledged that increased contributions from residents should only pertain to those able to make them and that the provision of accommodation and services for financially disadvantaged residents needed to be absolutely safeguarded and properly resourced by government.

Operational Funding

Virtually all submissions including provider, consumer and workforce representative papers, noted the lack of transparency and accountability in the current mechanism for determining and indexing government and consumer funding for existing and future residents. Virtually all noted the

lack of any independent measurement of input costs and a methodology which ensured these were properly funded.

There appeared to be wide support for the establishment of an independent review/authority tasked with measuring the actual cost of care, including equitable remuneration of staff and setting an annual indexation methodology which properly recompensed providers for these costs.

Whilst some consumer and workforce representatives also called for greater direct accountability for the expenditure of these funds by providers, there was virtually no dissent from the position that the current mechanism was inadequate and required immediate change.

Many providers also agreed that the restrictions on offering extra services to residents who desired them and were prepared to pay for them should be lifted.

Many submissions questioned the current funding parameters contained in the ACFI process. Notably, some professional clinical submissions specifically highlighted the insufficiency of funding for specialised and complex interventions including the involvement of GPs in residential aged care.

Interestingly, a number of submissions, including consumer and workforce representatives, also noted the lack of reliable financial data relative to the financial health of the sector as a whole.

A number of provider submissions noted that the lack of such data had prejudiced the industry's success in making representations to government in the past in respect of funding anomalies. It was also noted that the lack of independent analysis of financial data held by government and the processes used to collect them contributed to the frustration of the sector.

ACAR process

Whilst it was noted by many providers, their representative organisations, and expert consultants that the lack of transparency in the ACAR process as it currently stands is a real issue, given that the Commonwealth has effectively lost control of the supply of places (as evidenced by the increasing and ongoing under subscription of ACAR, the growing numbers of places returned to the Commonwealth and the growing number of places issued but not constructed) a review of ACAR is to some extent redundant.

Suffice to say that if the ACAR process were to continue, the current lack of transparency would have to be addressed.

In particular, consideration would have to be given to including provider representatives on the committee advising on numbers of allocations

because providers are the best informed stakeholders in regard to demand and vacancy trends in particular regions.

Many submissions referred to the impact of declining occupancy on viability and certainty for future investment.

Whilst it was generally accepted in most cases that the number of residential and community care places required for the future will greatly increase, the impact on viability of existing services and future investment decisions including covenants to major lenders necessitates an immediate review in the short term of the number of places issued annually including a thorough analysis of the impact of the levels of vacancy reported widely across Australia.

Many submissions also advocated though admittedly after a "phase-in" period, the eventual abolition of the ACAR process and the move to funding people rather than places - allowing organisations to make investment decisions based on the existing and anticipated need within a particular region.

As the government only funds operational places occupied by approved residents, no risk currently attaches to government for getting such decisions wrong.

Further, abolishing the distinction between high and low care which in reality exists only to preserve the politically sensitive prohibition on bonds in high care, could simplify the process even further.

Regulation

Virtually all submissions, noted the extensive level of government intervention and regulation pertaining to the aged care sector in Australia.

Unsurprisingly, given only providers are required to actually meet what many consider an unjustifiably onerous regulatory burden, some consumer and workforce representatives called for greater regulation and reporting by providers.

Whilst there was not generally any discernible criticism of the existing accreditation process, most provider representatives called for choice of accreditation bodies and mechanisms.

Interface between government funded and privately funded aged care services.

A number of provider submissions noted the difficulty in providing residents with accommodation and care packages which allow for a seamless transition through the privately funded (Retirement Village including serviced apartments) sectors and community and residential care.

Some providers who operate both types of facilities unsurprisingly noted a significant overlap between community care, residential low care and serviced apartments.

In these submissions there was general agreement that review of aged care services should include the non-government funded sector and indeed that a combination of the two could go some way to solving some of the existing challenges.

It is certainly the view of the authors that this issue has to be addressed as a priority given the level of economic efficiency arising from the separation, the very real disruption and anxiety caused to elderly residents at a vulnerable time of their life and the importance of encouraging development of more sophisticated, relevant and targeted "whole of life" aged care and accommodation solutions.

Conclusions

1. The current capital funding system is overwhelmingly perceived as inadequate for the needs of the industry now and for the numbers and quality of facilities/places required into the future. There was strong agreement amongst providers for the introduction of more choice in the payment of accommodation charges and costs including the introduction of bonds for high care residents. Interestingly, many submissions also freely canvassed a greater contribution by residents to the cost of their accommodation services if they were able to do so.
2. The current operational funding mechanism is seen as inadequate to meet the increasing needs of residents including very importantly, the necessity to attract and retain skilled staff within the sector via better remuneration practices and the provision of more complex, clinical interventions.
3. The calls for an independent review of the provision of the real cost of care coupled with a commitment to establish a proper, aged care specific indexation mechanism was virtually consistent in all major stakeholder submissions.
4. A review of the ACAR process appears to have widespread support and interestingly, there appears to be growing push for its eventual abolition and government policy settings to be changed to move towards a process of funding only approved residents with less control/intervention over approved places.
5. There was a universal frustration expressed by providers as to the quantum, extent and efficacy of regulation exercised by the Commonwealth in the provision of community and residential care.

Even those submissions suggesting increased regulation called for the cost to be met with additional funding.

6. Obviously, future policy settings have to move beyond protecting inefficient, artificial and unnecessary barrier between government funded and privately funded services. Even some smaller, individual consumer submissions noted the difficulty in transitioning from retirement village care to residential care and providers clearly understand that residents would benefit enormously from a more seamless provision based on changing needs.

Recommendations

Immediate Steps

- A. Establishment of an independent authority comprised of direct industry representatives and other appropriately qualified and informed stakeholder groups to transparently assess the real cost of care and develop an appropriate indexation methodology as a result. This authority should also assume or delegate responsibility for regularly gathering and analysing financial data and report publicly on observable trends.
- B. Adopt normal government tender guidelines for the allocation of bed licenses by outsourcing the allocation function to an appropriately referenced private sector organisation ensuring greater transparency of decision-making and an allocation methodology reflective of the reality of changing trends including occupancy in existing facilities.
- C. Legislate to ensure all future regulatory positions or any other mandated requirements on providers are accompanied by a full cost benefit analysis including input from providers and/or appropriate representative organisations. This includes changes to building certification.
- D. Abolish the distinction between high and low care and allow all residents irrespective of their classification, the opportunity to pay a lump sum refundable deposit in lieu of accommodation charges. Further, legislate to allow all further drawdowns from this lump sum or direct increased financial contributions to meet any additional services residents may contract to receive. This in effect allows for the deregulation of extra service provision.
- E. Immediately review the real level of vacancy in aged care facilities across states and regions and publish this data regularly. As part of future funding agreements, require state governments to

account for residents in the public hospital system region by region requiring placement in aged care facilities.

- F. Commence an immediate review of the legislative and regulatory barriers impeding the recipient beneficial and economically efficient meshing of the privately funded and government funded accommodation and care services at all levels. This must include a clear commitment from State and Commonwealth governments to move towards implementation of any changes required to abolish these impediments.

Medium-term

- A. Abolish the allocation of bed licenses completely. Allow approved aged care providers to make decisions as to where they will construct facilities, the numbers of beds they will operate the configurations of rooms and facility layout apart from minimal building certification requirements focusing on health and safety.
- B. Further broaden the choices for residents to meet the costs of their accommodation and services beyond lump sum refundable deposits including the option to levy deceased estates for an agreed amount incurred in the provision of aged care. These agreed deductions, over and above any government subsidy can include costs for the provision of extra nursing and personal care where the resident and/or the family feels that such care is necessary or desirable.
- C. Introduce a quality/accreditation regime which is arm's-length and genuinely independent from government with the capacity to make recommendations about the removal, restriction or alteration of approved provider conditions if so warranted. Approved providers must be afforded the opportunity to challenge ***any*** such findings or decisions in an independent jurisdiction.
- D. Phase out all regulation and certification of aged care facilities EXCEPT for those relating to state fire and safety standards.
- E. Abolish the provisions relating to mandatory requirements of places to financially disadvantaged persons in favour of a Commonwealth tender processes (externally managed by organisations experienced in government tenders) for the provision of a required numbers of places within existing or new facilities for a period of time consistent with economic viability. Tenders should be assessed on the basis of economic efficiency and the standard of care and accommodation guaranteed for residents.

We would like to take this opportunity to thank the Commission for the opportunity to contribute to this review and are happy to provide any further assistance required.

Cam Ansell

Jim Toohey