

Submission to Productivity Commission Inquiry: Caring for Older Australians



United Voice – The Aged Care Union

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This submission has been prepared by United Voice National Office on behalf of United Voice members and branches across Australia.

Authorised by Louise Tarrant, National Secretary,
United Voice – The Aged Care Union
303 Cleveland Street, Redfern, NSW 2016.

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References



- *Industry-wide agreement on monitoring the quality of vocational training with a view to standardising training times and quality outcomes.*
- *Industry-wide agreement on incorporating meaningful wage progression into any training agenda. This agreement should follow a review of the adequacy of industry VET programs.*
- *Incorporating paid time off for training into funding mechanisms in addition to facilitated inductions involving industry stakeholders.*
- *Better recognition of the complex skills required in the role of the personal carer or community care worker.*
- *An exploration of Recognition of Prior Learning and Recognition of Current Competencies as important mechanisms in acknowledging the existing skills of aged care workers through awarding of statements of attainment leading to an aged care qualification.*

United Voice Recommendation 9

Employers and their employees should not be constrained by the structure of the Aged Care Award 2010. Indeed, the Fair Work Act 2009 encourages the bargaining of Enterprise Agreements to build on this safety net. Instead of waiting for the unions to address the issues with the minimum safety net through 'Work-Value' or 'Pay-Equity' cases, employers and employees should be building in proper career paths with appropriate incremental advancement into their Enterprise Agreements – recognising skill and experience.

United Voice Recommendation 10

That the Commission reiterate its previous recommendation not to introduce a licensing system for personal carers.

United Voice Recommendation 11

That the Productivity Commission recognise that migration programs should not be used as a stop-gap to prop up an under-resourced and low paid industry. Migration programs alone will not fix current workforce issues, which need to be addressed before any migration programs are considered. In addition, we recommend that the Commission recognise that any migration employment programs contain sufficient safety nets to ensure equitable treatment of workers.

United Voice Recommendation 12

United Voice calls for the Productivity Commission to produce greater evidence from other human service sectors to support its theory of liberated markets resulting in higher levels of efficiency, innovation, quality and lower prices.

United Voice Recommendation 13

United Voice calls for the Productivity Commission to provide the industry and community with a fuller discussion on the impacts of reform, taking particular note of the negative impacts on the workforce and low income consumers.



1. Introduction

1.1 Introducing United Voice

On March 1st 2011, LHMU became United Voice. National Secretary, Louise Tarrant, described this change in a speech to the National Press Club:

“In becoming United Voice we are breaking with the Australian union movement’s traditional description of itself solely by reference to the jobs and work of its members. And in doing so we are embracing a broader role as a community advocate for an alternative economic agenda. We are the first union in Australia to take this step, so today really does mark an historic new chapter for United Voice.

Of course, this does not mean we will stop campaigning in workplaces, organising workers and representing our members. That has always been the core work of unions and it will continue to be so. But it does mean that our work will become increasingly relevant to many Australians who might not be members of our union or engaged with the union movement at all.”¹

United Voice aged care members work as cooks, gardeners, maintenance workers, personal carers, enrolled nurses and lifestyle therapists. As such, much of this submission responds to the suggestions in the Productivity Commission draft report around workforce issues. For these members, improvements to wages, working conditions, skills and training are crucial to the quality of their jobs. For this reason, United Voice reiterates its support for the process of reform. Aged care workers know that the industry needs to change.

None more so than Renee Clarke, a personal carer from Perth. Her job is to ensure the comfort, safety and peace of mind of some of our most vulnerable people. She describes the effects of working in such a drastically underpaid profession as such:

“I work 61 hours a fortnight and am responsible for three children under the age of thirteen and a dependent brother. We used to eat mince to save money, now we cannot afford to buy any meat at all. My money goes to pay bills and food and nothing extra. To help pay the bills I also work as a cleaner. This means I don't spend time with my kids because after work I am out of the house doing cleaning. Even if I was home I cannot afford to do anything with my children such as sport, go to the cinema, eat out or shopping.”²

After a lifetime in low paying jobs under difficult conditions, aged care workers like Renee will find it difficult to amass savings, leading to low superannuation balances and owning few assets. More broadly, this is the experience of the wider United Voice membership, across a range of industries. These workers have an expectation that a reformed aged care system will deliver quality care for all those consumers who need

¹ Tarrant, 2011.

² United Voice, 2010.



it, not just for those who can afford it. This submission speaks to these expectations and in doing so hopes to find common ground with other advocates of social justice in the wider community. United Voice recognises the substantial work undertaken so far in this inquiry. As such, where possible it seeks to build on proposals put forward by the Productivity Commission.

1.2 A Fair Share for Aged Care

United Voice aged care members come together nationally through the *Fair Share for Aged Care* campaign. Aged care workers are campaigning for:

- fair remuneration of aged care workers;
- fair indexation of subsidies;
- fair workloads where quality time with residents and clients is valued as part of the job.

The **Fair Share for Aged Care** campaign is based on the adoption of the following principles:

- Action needs to be taken **now** to ensure the Aged Care sector, and its dedicated professionals, are given the resources to ensure older Australians receive the highest standards of care.
- Workers in aged care provide an invaluable and vital contribution to our society and the lifestyle of older Australians. Currently, despite the best efforts of some employers they are low paid due to the way the sector is funded.
- Limitations on aged care sector funding, means that facilities and programs have faced significant difficulties in attracting and retaining workers as well as building and maintaining quality accommodation and services.
- For Australia to tackle the challenges of an ageing population it is imperative that aged care workers are paid adequately.
- We look forward to the Australian Government and Fair Work Australia assisting to create an environment where providers, unions and government can lift aged care workers out of low pay through a change

1.3 Coverage

United Voice represents the majority of direct care and support workers employed in the residential and community aged care sector, including:

- aged care workers in WA, SA, NSW ACT, NT and Qld;
- whilst coverage and titles may change slightly state by state, United Voice represents Enrolled Nurses, Carers/Patient Care Assistants/ Nursing Assistants/Community Care Workers³ and all Cleaning, Catering and Laundry staff; and
- 75% of the aged care workforce.

³ This submission uses the term 'personal carers' to represent all these titles.



2. Quality aged care

2.1 Quality as a key objective of the future aged care system

The Productivity Commission has quite rightly put the needs and wishes of older Australians at the forefront of its inquiry. A key part of this re-assertion of the consumer has been the emphasis on choice; the Commission notes that older Australians should “be able to exercise some measure of choice if they require care.”⁴ This increase in choice is seen as enhancing person-centered care.

United Voice supports this process and commends the Commission for working to ensure that older Australians have a wider range of aged care services to choose from in the future.

Despite the draft report largely focusing on choice as a primary objective, United Voice asserts that there are several factors that will continue to restrain the choices available to consumers:

- Even if the proposed deregulation of supply is successful, consumers will still be choosing from a limited number of residential and community aged care providers. There will not be a residential aged care facility on every corner nor will there be a long list of community care providers to choose from in every suburb. The market will only support a limited number of providers.
- This effect will be exacerbated in rural and regional areas where choice will be similarly constrained by the smaller size of the population and corresponding smaller market for services.
- Consumers have strong geographic preferences over the location of services, particularly for residential aged care. This is in itself obvious – people have a desire to be close to family, friends and a familiar community.
- Choice is a relative asset in socio-economic terms: those with limited assets and income will continue to face restrictions in the choices they will be able to exercise when choosing services⁵.
- Will it even be possible to exercise choice in many circumstances? For example, the notion of choice will be difficult to apply to many older Australians, particularly those with high levels of acuity, who live in residential aged care facilities.

These are not arguments against consumer choice. Instead, these realities guide us to an objective of the future aged care system that has been overlooked – quality.

In all of the circumstances outlined above, the consumer of aged care services will not be able to choose from an unlimited range of providers. Instead, what becomes

⁴ pXXI. Note all page references in this submission refer to the Productivity Commission draft report, unless otherwise stated.

⁵ Section 5.1 contains a more detailed analysis of this concept.



important for consumers is not the quantity of choices on offer, but the quality. Consumers need to know that they are choosing from a range of quality providers. Delivering person-centered care will require a consistently high standard of quality across the industry.

United Voice members have a particular interest in this issue - not only those who work in aged care, but also those who work in a variety of other low paid industries, including cleaning, hospitality and childcare. A typical United Voice cleaning member, will face retirement with a superannuation balance of under \$30,000⁶. This person will be restricted in their choice of aged care services to the small list of providers operating in their local area. More than choice, these consumers and their families, want to know that the quality standards in each and every service are high.

Furthermore, United Voice aged care members are deeply committed to the provision of quality care to residents and clients. It is for these reasons that a dedicated core of workers remains employed in the sector despite poverty level wages and difficult working conditions. Being able to deliver the care that residents and clients want and need is the first priority for United Voice aged care members.

United Voice acknowledges that the draft report does contain a number of key points around quality and quality standards. These will be discussed in both (2.2) below and throughout the remainder of this submission. Whilst this is to be commended, United Voice urges the Commission to place a higher degree of emphasis on quality as an objective of any reformed aged care system, by acknowledging the restrictions on choice that consumers will continue to face.

United Voice Recommendation 1

That the Productivity Commission recognise the centrality of quality as an explicit objective of the new aged care system. This should be reflected in the 'principles to guide future policy change' as detailed on page xxv of the draft report.

2.2 Drivers of quality in aged care

This higher degree of emphasis should be accompanied by a more robust discussion on the drivers of quality. The Commission notes five specific reforms from the draft report as promoting high quality care:

- i. Greater consumer choice and a more liberated market of service providers which should encourage high levels of quality care to be seen as a competitive advantage.
- ii. Improved funding and consequential improved workforce conditions.
- iii. Improved regulation and regulatory oversight, together with upgraded complaint handling processes.
- iv. Greater recognition by providers, staff and trainers of the needs of culturally diverse groups and those with special needs.

⁶ Based on United Voice research.



v. Increased access to consumer advocates.

United Voice has grouped these drivers into three categories – government interventions, workforce and structural change – each of which are described below. In doing so, this submission does not contain a full discussion of many of the quality drivers that are present in the current system, most notably the accreditation standards. Instead, this submission seeks to investigate aspects of the draft report that may adversely affect quality.

(a) *Government interventions*

United Voice members agree with the Commission that “regulatory oversight is essential to protect older Australians”⁷. To this end, United Voice supports reforms proposed by the Commission that contribute to (iii) and (iv) in the preceding list. A continuing strong role for government should be a fundamental principle of any reform process. Government involvement is essential in protecting aged care consumers from the risk of low quality or unsafe services. Section 5.1 of this report discusses the role of government with respect to safety nets.

(b) *Workforce*

The Commission notes that the “experience, attitude and attention of staff and the time they take in providing care services” is a key indicator of quality⁸. United Voice members strongly agree with this assertion. Section (3.1) of this submission gives more detail on this topic including a discussion of quality driver (ii) listed above.

(c) *Structural change*

The draft report proposes a number of structural changes to the aged care system. Improved quality, as seen in (i) above, is assumed to be the natural consequence of these reforms. United Voice questions this assertion. We ask that the Commission demonstrate evidence from other human services industries that shows market liberalisation and increased competition increases quality standards across the industry.

In addition, the Commission needs to examine quality not as a separate and assumed characteristic, but as an issue that is overwhelmingly driven by larger structural changes, not necessarily in a positive way. Evidence from inappropriate industries – such as electricity and telecommunications – or evidence from industries where competition has not been the driver of quality – such as childcare – are not sufficient evidence on which to base the process of reform. Section (4) of this submission contains a more detailed examination of the nature of competition and structural change within aged care.

⁷ p119

⁸ p69



3. Workforce

“As a carer, I have to deal with every possible emotion a human being can have and yet the work is not valued. Some people say it’s a mugs game, but if no one did it, people would suffer.”

Ingrid Albers, personal carer, Bunbury, WA.

3.1 How does the workforce contribute to quality care?

Section (2) of this submission signaled quality as a key issue for United Voice. In addition, it was argued that the aged care workforce is one of three key drivers of quality; this in itself has been recognised by the Commission in the draft report⁹. Elsewhere in the report, the Commission also identifies the future problems of labour supply that will affect the industry.

“Poor pay and conditions reduce incentives for workers to enhance their skills, and thereby improve service quality. Poor conditions also exacerbate turnover, as workers with higher qualifications and/or better opportunities move out of the social care sector.”¹⁰

Professor Gabrielle Meagher, University of Sydney

At a fundamental level, issues of quality are workforce issues. Unless workforce issues are addressed on a systematic basis by both the Commission and the industry, older Australians will never receive care that is of a consistent quality. Sections 3.2-3.8 of this submission detail some of the problems facing the aged care workforce. United Voice asserts that providing solutions to issues including training, skills, working conditions and wages, will dramatically change the attractiveness of the aged care industry to current and future workers, helping to ameliorate these problems.

United Voice Recommendation 2

Further to United Voice Recommendation 1, we call on the Commission to recognise explicitly that solving workforce issues is the key to providing quality care.

United Voice hopes that the ideas contained in 3.2-3.8 can contribute to an industry-wide discussion on solving workforce problems.

3.2 Support staff in aged care

United Voice members work as kitchen and laundry hands, drivers, tradespeople, maintenance workers, cooks, gardeners and cleaners within both community and residential aged care. These workers are referred to in this submission as *support staff*. United Voice strongly disagrees with the Productivity Commission in its contention that support staff “should be considered in the context of their respective

⁹ p69

¹⁰ Meagher, 2007: 142.



sectors.”¹¹ Support staff know that they are an essential part of the aged care system and contribute holistically to the care of residents in both residential and community care settings.

Support staff should be included in any consideration that the Commission makes with reference to wages and working conditions of aged care workers.

3.2.1 Support staff in the Modern Award

Support workers work alongside direct care workers in the aged care industry. The coverage of industrial instruments generally include all workers in aged care – support workers and direct care workers. The underpinning award, the *Aged Care Award 2010*, covers all support workers, personal carers and recreational activities officers. The Enterprise Agreements that build on the safety net also include support staff recognising that they are working in the aged care industry.

3.2.2 Support staff wages determined by the aged care industry

United Voice points the Commission to the work of Dr Ian Watson¹², details of which are included in the references of this submission. This study is a broad statistical analysis of aged care workers wages, broken down by occupational classification. As such, different occupations – carers, cooks, gardeners etc – are separately identified in the study. Dr Watson compares workers in individual occupations in aged care with workers in those same occupations in different industries. This is achieved by comparing the number of employees in each industry whose wage sits at the national minimum wage. The table below¹³ illustrates this point for a variety of support staff roles.

Table 1: Workers at or below minimum wage

Workers at or below minimum wage		
Occupation	Aged care	Other industries
Food Trades Workers	50.2%	33.8%
Hospitality Workers	52.5%	47.7%
Labourers	74.4%	44.7%
Cleaners and Laundry Workers	77.6%	57.0%
Food Preparation Assistants	73.1%	61.3%

As can be seen, support staff working in the aged care industry are far more likely to be earning the minimum wage than their counterparts in comparable occupations within other industries. The conclusion drawn is that the overwhelming determinant of wages is not the occupation of workers, but the placement of those workers in the aged care industry. In other words, **it is the unique features of the aged care**

¹¹ p347

¹² Watson, 2010.

¹³ Watson, 2010: 41.



industry itself that determine worker wages, not the occupation of the individual worker, be it carer, cook or gardener.

3.2.3 Industry reaction to the recommendation

Residential and community aged care providers know that support staff are essential to the operation of their services. United Voice notes the strong reaction from industry stakeholders, with the most recent meeting of the National Aged Care Alliance, attended by the Commission, noting the non-inclusion of support staff as a key deficiency of the draft report.

United Voice Recommendation 3

Support staff – kitchen and laundry hands, drivers, tradespeople, maintenance workers, cooks, gardeners and cleaners – are essential to the operation of residential and community aged care services. All aged care workers should be included in the outcomes of this enquiry, including in any determinations and mechanisms in regard to wages and working conditions.

3.3 Wages of aged care workers

3.3.1 Wages of aged care workers: what are the problems?

The low wages of aged care workers are a significant problem for the industry and are recognised by providers, workers and government as an obstacle to genuine reform. Problems with respect to low wages are summarised below:

- Contributing to staff recruitment and retention difficulties and associated costs for residential and community care providers.
- Paying wages to registered nurses and enrolled nurses that are not competitive vis-à-vis the acute sector, creates the perception and reality of an occupation that is inferior to that on offer elsewhere.
- Wage injustice for personal carers and support staff, the majority of the workforce, being some of the lowest paid workers in Australia.
- Increases in available funding not flowing automatically into wages. Whilst the good intentions of employers are acknowledged, previous injections of funds to the industry have not resulted in adequate and fair improvements to wages and working conditions.

Whilst a significant number of reports and enquiries have noted the problems associated with low wages in the sector, very few have proposed concrete solutions to deal with this issue. This submission attempts to provide a more detailed examination of low wages. In doing so, **United Voice recognises that this inquiry has opened up a unique opportunity for employer groups, unions and consumers to agree on realistic, concrete solutions that can provide fair wages for all aged care staff.**



3.3.2 Structural change: effects on aged care workers wages and conditions

Before properly discussing solutions, it is first necessary to examine in detail the origins of the problems of wages and working conditions in aged care. The Commission and indeed the industry are familiar with the process of structural change that occurred in the industry from 1987 to the present day. However, what has not been properly digested is the effects of structural reforms on aged care workers. As such, it is necessary to review that reform process from the workers perspective.

The CAM/SAM funding arrangements, as they are commonly known, were instituted in 1987 as a way to improve the accountability of residential aged care providers. The CAM portion of the funding directly linked the cost of wages to the cost of care and had the following characteristics:

- Funding was paid on a cost refund basis.
- A 5 level assessment instrument determined the level of care each resident received.
- Each level had assigned a standard number of care hours.
- A formula was used which converted these hours to funding hours, based on the minimum costs of nursing and personal care staff in each State, via a direct link to each state award¹⁴.
- The funding was indexed quarterly to reflect changes to State Awards.
- Unused funding had to be returned, so providers had an incentive to pay staff the full amount (in fact they got a 1% bonus if they used all the funding).

For workers, these funding arrangements provided greater certainty in terms of working conditions and wage rates, than exists under the current system. The abolition of the CAM/SAM system in the mid-nineties marked a departure from an input-regulated to an outcomes-assessed quality system in aged care. This new approach was “to be driven by care needs of residents, rather than arbitrarily devised inputs”.¹⁵ This left providers free to choose how they spent their funding, although they were still governed by quality monitoring mechanisms (as well as other relevant regulations such as the award system). The effect of this has been described by Access Economics as such:

“In order to comply with regulation, including price caps, and with the removal of regulated staffing ratios, RAC providers have tried to control cost growth by increasing the proportion of less qualified care staff (DEST, 2001). However, the PC (2008) notes that this and high capacity utilisation (currently 95%) associated with the bed licensing system means that quality of service can suffer and not meet minimum standards.”¹⁶

¹⁴ The CAM/SAM funding model had other flaws and this is not a substantive analysis; the aim is to demonstrate the benefits of the CAM/SAM system for aged care workers in terms of wage certainty.

¹⁵ See Richard Gray’s paper *Third wave of aged care reform* for more details.

¹⁶ Access Economics, 2009: ii



These implications of structural reform have been recognised to some extent by the draft report. What has not been comprehended by the Commission or the industry at large, is the effect that the outcomes-assessed quality standards has had on working conditions for aged care staff. United Voice members consistently speak out about the gradual deterioration in working conditions over the past twenty years.

In short, structural change has meant that:

- Workers have increasingly borne the brunt as providers look to navigate constrained funding arrangements by opting for the most economically ‘efficient’ – that is, cheapest – method of meeting quality outcomes. In practical terms this has meant that workers have been subject to two cost pressures:
 - the suppression of wage levels; and
 - a dramatic increase in work intensification, particularly for personal carers.
- Simultaneously, direct regulations that protected workers – for example, the linking of funding to specified care hours – have been eliminated.
- Eventually, these arrangements have become the industry norm. The indexation method pursued by DOHA over the past decade has only increased pressure on the workforce. The subtraction of unspecified ‘productivity gains’ from funding arrangements during the annual indexation process has only increased pressure on providers to find more ‘efficient’ ways to run their businesses. This endless hunt for efficiency only intensifies working conditions for staff.

In an industry where approximately 75% of costs are from labour, the net result has been increasing pressure on the workforce, without any direct labour regulations to compensate. It is important to understand that competitive pressures, brought on by structural reform, have not been positive for the aged care workforce. This is particularly important in light of the suggestions in the draft report that look to deregulate the industry and increase competition between providers.

3.3.3 Finding a solution for wages

The remainder of section (3.3) of this submission has three aims:

- i. to set out why a special approach to wage setting is required in aged care;
- ii. to look at the proposals of the draft report and note the positives and negatives with respect to the wages of aged care workers; and
- iii. to outline a proposal to integrate reforms to wage setting in aged care with the proposed Australian Aged Care Regulation Commission.

3.3.4 Why a special approach to wage setting is required

Conventional bargaining

Within the Australian economy enterprise bargaining has been successful in many industries. However bargaining has been significantly less successful in aged care and has not delivered adequate or fair wages. Indeed, the aged care workforce remains



low paid. Problems with traditional enterprise bargaining in the aged care sector include¹⁷:

- The Federal Government determines the form and amount of funding the industry receives:
 - inadequate government funding is cited by many employers as being an impediment to fair wage rates;
 - the funding mechanisms and the regulation of the quality of care through the accreditation process determines to a large extent how care work is performed; and
 - by allocating costs to each of the funding domains, the government by default places a value on the tasks associated with the care of residents across these domains¹⁸.
- Wage increases have been offset by various ‘trade-offs’ providing only marginal overall improvements to pay and conditions. Even where ‘trade-offs’ have not been part of bargaining, the resulting wage increases are low and either in-line with minimum wage increases or just above.
- There are a significant number of small enterprises without the expertise to bargain.
- The demographic structure of the aged care workforce places workers in an inherently weak bargaining position when compared to other industries. Relevant factors include the high levels of feminisation, the age of the workforce, high levels of migrant workers, the qualification level of workers and the relative levels of social and economic power and status.

The lack of opportunity for effective enterprise bargaining has contributed to the ongoing undervaluation of aged care employees’ remuneration. This in turn has meant that the wages of aged care employees are behind relevant community standards. Employees at all levels, and particularly at levels where employees hold vocational education qualifications, are paid significantly less than other employees performing work requiring the same levels of qualification and/or experience. For example, 45% of the aged care workforce that hold either a Certificate III or a Certificate IV qualification are paid less than \$600 per week, compared to 28% for other industries where workers perform comparable tasks¹⁹.

Comparisons with childcare

In order to illustrate our arguments, it is useful to examine wage movements in other ‘like’ sectors. There are significant similarities between aged care and child care industries – both have highly feminised, predominantly part time workforces and are heavily reliant on government funding.

¹⁷ For a more detailed examination of the weak bargaining position of aged care workers, please see “*The ‘bargaining power’ of women employees in the low paid personal care sector: A brief review of the concepts and the evidence in Australia*” by Dr Rae Cooper, available here: <http://ww2.fwa.gov.au/s243/>

¹⁸ Kaine, 2010.

¹⁹ Watson, 2010.



In 2005, United Voice ran a major, historic work value case in the Australian Industrial Relations Commission (AIRC). The outcomes of this are now reflected in the *Children's Services Award 2010*. While the changes to State and Federal child care awards arising from three AIRC Full Bench decisions in 2005 resulted in significant wage increases for many children's services employees across Australia, these increases were granted in the context of a requirement that the AIRC Full Bench determine minimum wages only.

The AIRC Full Bench decisions in 2005 rectified the historic undervaluation of minimum award wages by reference to general minimum wage standards in awards, but did not (and could not) rectify the historical undervaluation of the work having regard to actual remuneration standards in the community. Actual remuneration standards are set by enterprise bargaining agreements that are outside the scope of any determination of minimum wages. United Voice argues that the same would apply if the opportunities to move the *Aged Care Award 2010* through the provisions of the *Fair Work Act 2009*, such as an Equal Remuneration Order (ERO) were accessed.

Further, United Voice argues that the ERO being sought by the Australian Services Union (ASU), United Voice and others will not deliver wage fairness to social and community service workers. Wage fairness cannot be delivered by Fair Work Australia in their consideration of minimum wages where enterprise bargaining has not delivered significant gains as it has in other industries. Another Fair Work Australia case affecting aged care is the United Voice low paid bargaining application. That application seeks to initiate enterprise bargaining and does not guarantee or necessarily lead to wage fairness.

The government funding arrangements in these industries has held wages at either the minimum rates or insignificantly above that minimum.

3.3.5 Solutions: Australian Aged Care Regulation Commission

*"The Commission supports the payment of competitive wages to nursing and other care staff in the sector."*²⁰

United Voice commends the Commission for *recognising* the issue of low wages in the aged care sector. Despite this recognition, several problems exist with the Commission's analysis:

- As detailed in (3.2) of this submission, the Commission does not include support staff in its considerations. **Any solution to wages in the sector must include support staff.**

²⁰ p263



- There are concerns with the concept of ‘competitive’ wages in relation to aged care workers who aren’t registered nurses. Aged care workers do not necessarily compete with the public sector, nor is there a public sector equivalent. Even if such competition were established, it is widely recognised that the health and community sector as a whole is undervalued. **Aged care workers should be paid a wage that is not only competitive, but fair.** All aged care workers, not only ‘direct care employees’, should be paid a fair wage.

However, despite these problems, the report does contain a key recommendation in setting up the Australian Aged Care Regulation Commission (AACRC). This proposal is widely supported by unions, consumer groups and aged care providers. In this context the draft report states at page 364:

“In the long term, it is unlikely that wage for aged care workers will become or remain competitive unless there is an independent mechanism for assessing the cost of delivering care and setting scheduled prices accordingly.”

This independent mechanism is an important process in ensuring the delivery of quality care. For aged care workers, **the price that the AACRC uses as an input into its mechanism for costing care will become the key determinant in the wages that workers receive.**

3.3.6 Solutions: What is a fair wage?

This price input must be at a level that constitutes a fair wage for aged care workers. So, **what is a fair wage?**

Appendix ‘A’ to this submission includes a random comparison of agreements located on the Fair Work Australia Online website (www.fwa.gov.au) where the Australian Manufacturing Workers Union is a party to the agreement and the classification structure and corresponding wages rely on the metal trades C-level structure.

As discussed earlier in this paper, the Full Bench of the AIRC inserted “properly fixed minimum rates” into the two Federal Awards in another ‘caring industry’ – the childcare industry – following work-value cases in 2005. It is to be recalled that the Full Bench aligned the Certificate III Level 3 child care worker with the metal industry C10 (tradesperson) classification (this is equivalent to Level 4 in the *Aged Care Award 2010*).

In the Australian wage-setting context, these decisions establish the “comparability” of Certificate III with C10 trade-based qualifications for the purposes of minimum award wages. As outlined in (3.3.4), actual remuneration standards are set by enterprise bargaining agreements that are outside the scope of any determination of minimum wages. Manufacturing workers face a vastly different set of conditions for bargaining compared to workers in aged care and hence have been able to negotiate significantly above that minimum. Problems with enterprise bargaining in aged care were outlined in (3.3.4).



Additionally, the above decisions established that qualifications in the female dominated childcare sector are equivalent to the same level of qualifications in a male dominated metal trades industry. It is argued that the same holds true for the aged care sector.

More recently in the award modernisation process, this alignment to and comparability with Certificate III has been recognised in the *Aged Care Award 2010*. An aged care worker with a Certificate III is aligned to the award rate for a C10 trade based worker in the modern metals award – the *Manufacturing and Associated Industries and Occupations Award 2010*

On this basis of work value and pay equity principles, it is more appropriate and fair to make a comparison with the metal trades industry rather than looking within the health and community sector. In seeking a **fair wage** for aged care workers, it is therefore appropriate to be comparing aged care to an industry unconstrained by government funding arrangements and with a different demographic profile. A conservative average for the agreements in Appendix A would **nominate \$26 per hour as a fair wage for a personal carer holding Certificate III.**

3.3.7 Solutions: an Industry Standard

Sections (3.3.7) – (3.3.8) refer to Chart 1 on the following page.

United Voice proposes the integration of an industry wide wage solution and the independent pricing mechanism as outlined in (3.3.4). The assessment of the cost of care should involve a formula which uses an enforceable Enterprise Agreement reflecting a new and agreed industry standard of wages and conditions. The formula could use a skills mix model to determine the cost of the care.

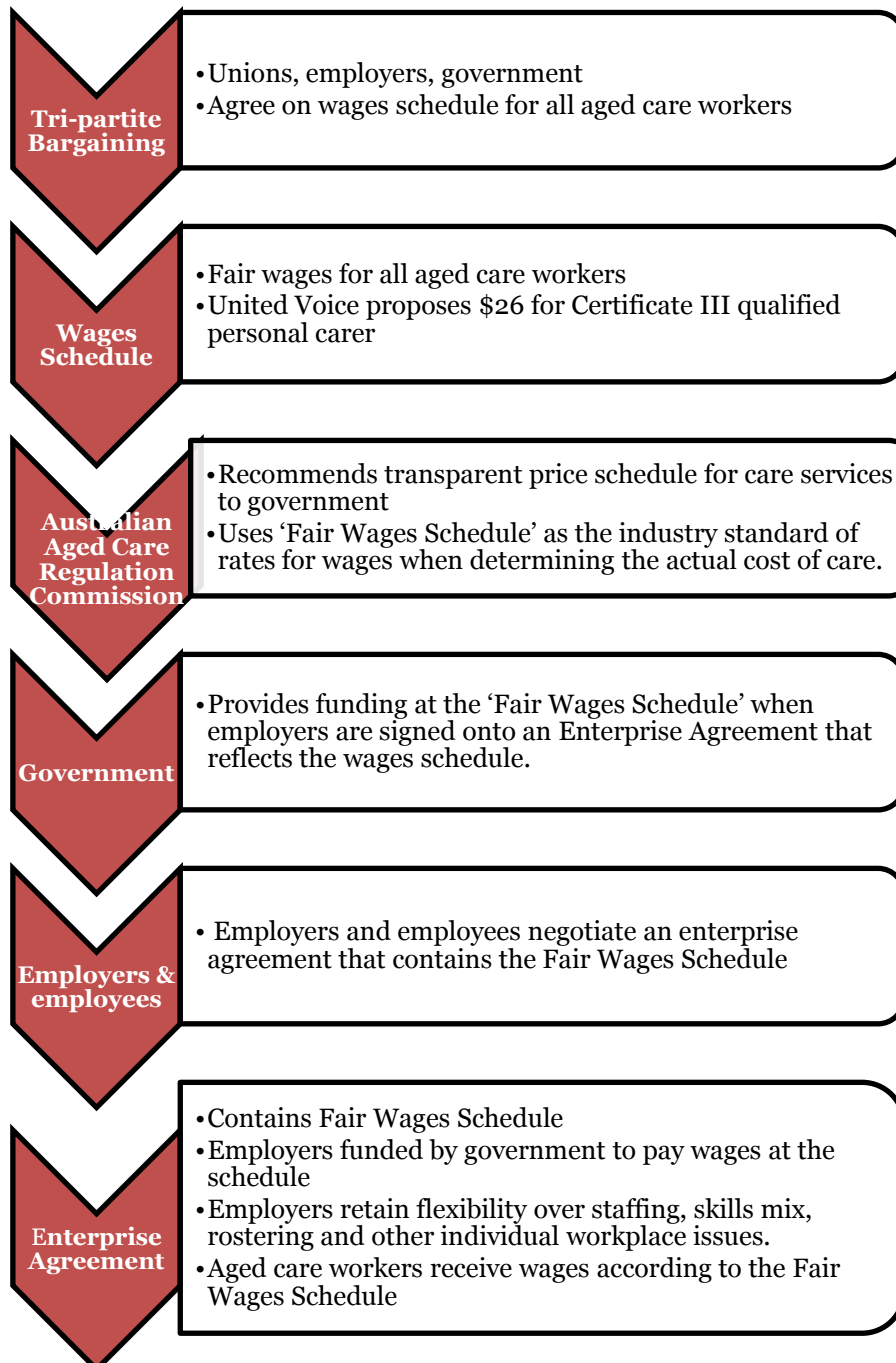
As outlined in (3.3.5), the price that the AACRC uses as an input into its mechanism for costing care will become the key determinant in the wages that workers receive. The Enterprise Agreement outlined above could act as a new industry standard, or new wage floor, reflecting an assessment of fair wages, as outlined in (3.3.6). An industry standard could be negotiated as part of negotiations arising from a low paid authorisation under section 243 of the Fair Work Act, as being currently pursued by United Voice²¹. Alternatively, the industry could negotiate outside of this process. The industry standard needs to contain fair wages, delegate rights and industry inductions facilitated by the relevant government department to ensure that aged care workers understand their rights.

United Voice proposes that the Australian Government needs to recognise and partly fund (providing further funding to meet the difference between the minimum and fair wages) the new industry standard. The Australian Government should agree that

²¹ See <http://ww2.fwa.gov.au/s243/> for further details.



Chart 1: United Voice solution for fair wages



Benefits of the United Voice solution

Aged care workers receive fair wages.

Increased accountability for government as funding is connected to a legally enforceable instrument.

Employers are funded to pay their employees fair wages.

Employers retain flexibility over staffing, skills mix and rostering.



an industry standard, against which it will assess funding, is achieved when industry parties (including major providers) sign on to the new industry standard. The standard could be composed of a combination of single and/or multi-enterprise agreements all containing the fair wages and other matters listed above. When the industry (as defined) enters into these agreements, it will be used to assess the cost of care for those signatories and funded on that basis.

When the Australian Government commits to provide funding on the basis of assessing the cost of care against the industry standard, then aged care workers will receive fair wages (where they are employed by a signatory). In addition, the nature of this solution provides an element of accountability for government; providers having signed onto the industry agreement ensures that additional funding provided by government flows directly to wages. In effect, this achieves an accountability mechanism without segregating funding specifically for wages.

Enterprise Agreements under the Fair Work Act cannot be longer than four years in duration. The agreement/s would need to provide pay increases on the fair wages every year. It is proposed that the fair wages be increased by the higher of the Agreements' Average Annualised Wage Increase (AAWI) index and the Annual Wage Review increase calculated on a percentage basis every year. Where the industry standard is made up of a combination of single and/or multi-enterprise agreements, those agreements should contain a common nominal expiry date to allow for simpler administration and enforcement of that standard into the future.

3.3.8 Conclusion: a way forward?

In conclusion, we note that the solutions proposed in this paper are medium to long term in nature. The Productivity Commission itself has noted that a process to set up the AACRC could take between two and five years. This process needs to work concurrently with **immediate action to start fixing the problems of low wages in the sector.**

United Voice Recommendation 4

The Productivity Commission recommend that the Federal Government take immediate action to start fixing the problems of low wages in the sector by making wages a priority in the transition process to a reformed aged care system.

3.4 Working conditions in aged care

3.4.1 Describing working conditions in aged care

United Voice notes the discussion in the draft report around the difficult working conditions in the industry, with the Commission recognising that “direct care staff appear under increasing pressure to provide quality care”²².

Broadly speaking, difficulties in working conditions in aged care can be thought of as:

- The physical, emotional and psychological difficulty of the work.

²² p365



- Not having enough staff on each shift for the number of residents.
- Staff not having enough time to do their jobs properly.

3.4.2 Current industry attitudes to labour regulations

Unpacking the effects of structural reform (section 3.3.2) on the workforce gives clues as to the hesitancy of industry stakeholders to introducing regulations, for example staff to resident ratios, that would assist in **directly regulating the working conditions of staff**. Instead, the top-down approach necessitated by an outcomes-assessed quality system is pervasive. The draft report reflected these sentiments when it noted:

“If staffing levels are considered to be inadequate, then the accreditation process (supported by the complaints process) should be the mechanism by which such inadequacies are rectified.”²³

For an aged care worker working on a night shift caring for fifty residents this approach is inadequate. The fact remains, **that without some way to directly regulate labour standards in the industry, the aged care workforce will continue to suffer from working conditions that would not be tolerable in other industries**. United Voice calls on all industry stakeholders to participate in a genuine process to alleviate the difficult working conditions faced by all aged care staff. Potential solutions are complex and involve regulatory, funding and workforce aspects.

3.4.3 Solutions: Funding models that support fair working conditions

Any discussion around improving working conditions necessitates a discussion around funding structures; regardless of who is paying for care, it is the funding that providers receive that will shape the work practices that they encourage in their businesses. The primary source of funding for care work is channelled through the ACFI tool. United Voice would point the Commission to the work of Dr Sarah Kaine, who has argued that:

“an unanticipated consequence of allocating costs to each of the funding domains (currently through ACFI but also previously through the RCS) is that by default these place a value on the tasks associated with the care of residents across these domains.”

Dr Kaine’s analysis is critically important in light of the Commission’s draft recommendation 12.1 which states that the AACRC should be charged with:

“monitoring and assessing costs and transparently recommending a scheduled set of prices, subsidies and a rate of indexation for subsidised aged care services”

²³ p365



United Voice strongly supports the transparent setting of care prices as envisioned by draft recommendation 12.1.

As with wages, the AACRC will continue to exercise substantial influence over the conditions within which aged care workers perform their roles. The Productivity Commission has not at this stage identified how this process would operate or how the cost of care would be identified and implemented.

Appendix E of the draft report champions the role of ‘responsive regulations’. Key characteristics of responsive regulations are that they can navigate complex regulatory environments better than ‘command and control’ regulations and they rely on the participation of major stakeholders. There is an opportunity for a ‘responsive’ regulatory framework to be applied to labour standards in aged care and implemented through the work of the AACRC. For responsive regulations to be successful, major stakeholders, including employers, consumer groups and unions, will need to be institutionally incorporated into the setting of care prices. Current consultative mechanisms, including the Ageing Consultative Committee and the Aged Care Workforce Committee, could be used to achieve this aim. These Committees could assist the AACRC in determining care standards that would underlie the setting of care prices.

In addition, these consultative mechanisms could be used to lift labour standards in the industry. For example, a Code of Practice could be developed by key industry stakeholders through the Aged Care Workforce Committee. This code could have the potential to improve working conditions above and beyond current industry practices and in doing so assist with the attraction and retention of workers in the industry.²⁴ This Code of Practice could be incorporated into the Accreditation Standards with a particular emphasis on working conditions as opposed to the top-down regulation of quality. The implementation of this code would need to be in conjunction with all industry stakeholders: consumers, providers, unions and government. Questions remain over the enforceability of such a code and whether or not it would be effective if it was not tied to accountability mechanisms or had penalties attached to it for non-compliance.

3.4.4 Solutions: Building social care into funding models

Aside from low pay, the most common complaint of United Voice personal carer members is not having enough time to complete their job properly. Academic evidence substantiates these claims; the 2007 NILS study revealed that only one quarter of carers in the residential sector felt that they had enough time to spend with each resident²⁵.

²⁴ This section draws heavily from the work of Dr Sarah Kaine. In particular, see the forthcoming paper ‘*Collective regulation of wages and conditions in aged care – beyond labour law*’, to be presented at the ‘Women, Work and Collectivism’ conference, 11 May 2011, University of Sydney.

²⁵ NILS, 2007: 31.



“People are dying of loneliness in aged care. Our workloads are so high. We just don’t have enough time for them.”

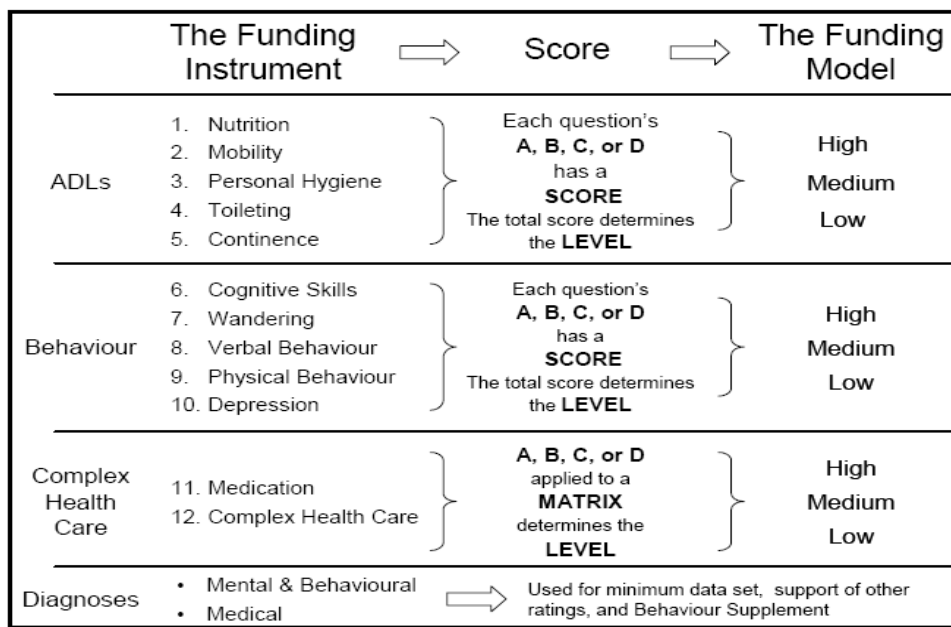
Kerri Anderson, personal carer, Qld.

What does this mean in practice?

- Residents/clients of aged care do not receive the time and attention that they need.
- Workers are often made to work unpaid overtime, in order to give residents/clients the time that they feel they deserve.
- Workers feel under increasing pressure to work harder in their jobs (45.2% agreed with this question in the 2007 NILS survey²⁶).

United Voice members know that this concern is shared by others in the community, notably older Australians and their representative groups. United Voice asserts that the aged care industry needs to reflect on the link between the time of carers and the quality outcomes for clients and residents. Building on the discussion in (3.4.3), if staff are to have enough time to spend time with each resident or client, then this must be reflected in the funding model. United Voice maintains that opportunities to achieve this funding are limited given the restrictive nature of the current funding model.

Figure 1: ACFI Funding Tool



²⁶ NILS, 2007: 32.



Reviewing the ACFI Funding Tool in Figure 1 above, we can see that providers are not funded to give their staff sufficient time with each resident. Whilst each of the three funding domains allows providers to allocate a portion of staff time to direct care, none of the domains explicitly allows staff to spend the quality time with residents or clients that would greatly enhance their quality of life. An opportunity exists in the current reform process to implement an additional funding domain, ‘social care’, that would allow staff to spend this time with residents. Models of social care that operate in both the UK and Denmark and evidence shows they allow providers to “meet a broader range of client needs” with a “focus on supporting development and autonomy”²⁷. In addition, benefits for the personal carer workforce would include:

- More time with clients and increasing levels of job satisfaction.
- Formalises work that carers are often doing as unpaid overtime.
- Recognises ‘soft skills’²⁸ that are inherent in caring roles; these are not recognised at the moment and consequently, workers are not remunerated accordingly.
- Work is less intense and of a higher quality.

United Voice refers the Commission to the work of Dr Deborah King of the National Institute of Labour Studies for further details on this subject.

United Voice Recommendation 5

United Voice calls for the Productivity Commission to investigate the link between staff time and quality outcomes for resident. This outcome should look to provide staff with sufficient time with each resident to improve their quality of life. The outcomes of this investigation should be incorporated into the transparent pricing mechanism of the Australian Aged Care Regulation Commission.

3.4.5 Solutions: Publishing staff numbers as a quality indicator

In a reform process characterised by empowering consumer choice, a key indicator in choosing aged care services will need to be the number of staff employed in a residential facility or the number of staff hours per client in community care. Indeed, a research report published for a Congressional committee in the USA noted that regardless of enforceable staff/client ratios, “consumers arguably have the right to select homes with this standard in mind.”²⁹

This report continues on to note that accurate staffing information is just one piece of the puzzle in terms of judging quality. For example, resident mix and levels of acuity will both affect the type of care residents need and receive in an individual facility. We invite the Commission to take this into consideration as a publicly available indicator of quality available through the new Seniors Gateway. Section (5.1.2) of this submission contains further detail on the importance of publishing quality indicators through the Gateway.

²⁷ King, 2011.

²⁸ For a further elaboration of the concept of *soft skills*, see Junor, Hampson & Barnes, 2008.

²⁹ ABT, 2000: 10.



United Voice Recommendation 6

United Voice calls for the Productivity Commission to recommend a publicly available indicator of quality available through the new Seniors Gateway.

3.5 Skills, training, qualifications and career paths

Ensuring that the current and future aged care workforce have the necessary skills to provide safe, quality care, is a key industry concern. United Voice shares these concerns.

The draft report has begun a process of framing potential improvements to issues of skills, training, qualifications and career paths for workers in aged care. In addition, the report identifies that much work is already being undertaken by the Department of Health and Ageing (DOHA), the Community Services and Health Industry Skills Council (CS&HISC) and Health Workforce Australia (HWA). This section of our submission aims to describe some of the problems in the aged care industry with respect to issues of skills and training. In doing so, we hope to provide ideas for the Commission to identify potential solutions that can strengthen the training and skill development of the aged care workforce.

3.5.1 Current industry problems: training not linked to wage progression

Margaret Redfern is a personal carer and United Voice member from Perth. She lists her training and qualifications as follows:

- Certificate III in aged care;
- Certificate IV in aged care;
- Mental Health Training Certificate; and
- internal courses on manual handling, fire procedures, infectious control and documentation.

Margaret currently **earns \$19.20 an hour**.³⁰

It is stories such as Margaret's that led Dr Bill Martin to conclude:

*“Personal carers achieve **no wage benefits** gaining the typical qualification for their work, in line with the experience of all women workers with lower levels of formal qualifications.”³¹*

In fact, 51% of aged care workers holding a Certificate III or Certificate IV earn minimum wages; this compares to 32% in other industries where workers are employed in comparable occupations.³² This wage injustice comes at the same time as personal carers are reporting incredible workload intensification. The aged care industry cannot expect workers to continue to increase their skills and training

³⁰ United Voice, 2010.

³¹ Martin, 2007: 188.

³² Watson, 2010: 48-49.



without rewarding them in a meaningful way through wage increases and career progression.

At present, career paths for the majority of aged care workers are based on those prescribed by the safety net of the Modern Award system. Looking specifically at residential aged care workers, the *Aged Care Award 2010* provides limited career structures and opportunities for progression. Employers and employees should be building on the safety net to provide an enhanced career structure which appropriately recognises experience, qualifications and skills. Unfortunately, this is not the case in the majority of the industry.

Whilst the draft report correctly notes that action is being taken by both DOHA and the CS&HISC, this alone is not enough. Even if these bodies better articulated an enhanced career path, this would not automatically correspond to an improved career path. Where wages connect with career paths is through the classification structures in underpinning awards and collective agreements. Short of the industry considering a work value assessment of the classification structure in modern awards, providers should be encouraged to build in improved career paths into their Enterprise Agreements.

Referring to Appendix B, we can see that the *Aged Care Award 2010* only provides for seven levels, of which only 3 contain a reference to the Australian Qualifications Framework (AQF). In terms of the 'personal care' stream in the modern award, 'level 4' is the first level requiring a formal qualification. The next express mention of a qualification is in 'level 6' where an Advanced Certificate or Associate Diploma may be required. Arguably, even if a personal carer holds such a qualification there is no requirement that they be classified at 'level 6' on the wording of Schedule B – Classifications Definitions of that modern award. Many aged care workers, particularly personal carers, obtain further qualifications that are not properly recognised by the AQF. All industry partners should be working together to have further qualifications *recognised* with a better articulated career path structure.

In addition, the *Aged Care Award 2010* has limited recognition of time-based progression and the recognition of experience. United Voice would draw the Commission to Appendix C, which shows the *Childrens Services Award 2010*. This provides for time-based progression at all levels as well as qualification based progression. The 'General and administrative services' stream in the *Aged Care Award 2010* contains some limited time-based progression with movement to 'level 2' following 3 months and to 'level 3' following 1 year, yet no such time-based progression exists for the 'Personal care' stream.

3.5.2 Current industry problems: inadequate focus on personal carers

The draft report notes that personal carers make up the vast bulk of the direct caring workforce and are growing in number in proportion to Registered and Enrolled Nurses. United Voice believes that relative to their size and importance, personal



carers have received a relative lack of investment in training capacities, policy structures and research outcomes. This can be attributed to three broad reasons:

- Substantially fewer academic and policy researchers focus on the personal care workforce than their nursing counterparts. Fewer academic bodies are interested in personal carers.³³
- There is little recognition in aged care industry training organisations of the need for this change in thinking to occur on a systemic level.
- There are underlying tensions in policy structures that are set up to deal with a health model of care, where as personal carers may be better dealt with under a more flexible policy model.³⁴

On a practical level, this under-investment takes several forms:

- With the exception of the Aged Care Education and Training Incentive program, the majority of training and research initiatives relate to Registered Nurses or other health workers.
- The Health Workforce Australia (HWA) workplan of February 2011, for example, includes a postgraduate medical training study; a macro supply and demand study on the “four major health workforces in Australia, namely, medical, dental, nursing and allied health”; workload measures for allied health professionals; supply and demand projections for the professions; national health informatics workforce plan; and a national training plan for medical, nursing and midwifery practice.
- Current grants awarded by HWA display the same focus on health and clinical matters, rather than the broader aged care workforce. These include the majority of the grants under the Caring for Older People program as well as clinical training and placement initiatives³⁵.

3.5.3 Current industry problems: lack of meaningful career paths

The traditionally health oriented, nurse-centric focus of the aged care industry has provided a clear, linear career path for workers, from personal carers, through to enrolled nurses and registered nurses. This career path will be suitable for some workers and United Voice notes the range of programs administered by DOHA that assist workers to take advantage of these opportunities³⁶. In addition, many of the

³³ For example, the following organizations are represented on DOHA’s Aged Care Workforce Committee: Australian Nursing and Midwifery Accreditation Council, the Royal College of Nursing and Council of Deans of Nursing. Whilst each of these organizations may research and advocate for issues relating to personal carers, their primary focus is on the nursing workforce.

³⁴ King, 2011.

³⁵ All the above information is taken from the HWA Workplan as presented to Aged Care Workforce Committee, 9 March 2011.

³⁶ For example, the *Nursing Stream* of the *Supporting a Professional Aged Care Workforce* program provides scholarships for Nurses with training focused on clinical care and creating career pathways into aged care. See <http://www.health.gov.au/internet/ministers/publishing.nsf/Content/mr-yr10-mb-mbo47.htm> for further details.



recommendations in the draft report will assist even more workers take up a career in nursing. **For some United Voice members, these programs will provide a unique opportunity to further their qualifications and we are supportive of these efforts.**

However, many United Voice members have spoken out clearly that this lineal progression into nursing is not the appropriate career move. The aged care industry needs to adjust its thinking beyond the healthcare paradigm and recognise the unique skills of personal carers within a developmental model of aged care. United Voice notes the draft report includes some positive ideas around widening scopes of practice which will “allow workers to diversify their skills and take on new roles in the provision of aged care services.”³⁷

United Voice asserts that the Commission needs to develop its thinking further in this area. We point the Commission to the work of Dr Deborah King who has written extensively on the possibilities of attracting a new cohort of workers into the industry by creating more flexible career pathways for the caring workforce. Dr King argues that the net effect of these changes would be to increase retention of workers, improve the image of the industry and increase the total labour supply.³⁸

The Commission cites the work of the CS&HISC in working with the industry to develop flexible career pathways. United Voice acknowledges the work that has been done, however, in reference to our arguments in (3.1.2), we believe that there has been limited attention paid to the caring workforce. Where attention has been paid, **current training regimes do not provide for meaningful career progression by failing to link training to wage progression**, in line with our arguments in (3.5.1).

3.5.4 Current industry problems: inconsistency of RTOs and training regimes

The draft report identifies the inconsistency of training standards, as a major impediment to both workforce development and the delivery of quality care. United Voice notes concern from stakeholders in relation to the quality of training provision by Registered Training Organisations (RTOs). In particular, we acknowledge the concern of the Royal College of Nursing Australia that there is “variance in content, hours, assessment and other quality indicators of training courses”³⁹. DOHA is also aware of the inconsistent standards applied across the industry, particularly with respect to the delivery of Certificate III training for personal carers.

United Voice supports a consistently high standard of teaching and assessment of aged care qualifications. It is important to our members and to the industry that all aged care workers receive quality training and are assessed to

³⁷ p369

³⁸ For details see Dr King’s submission to the Productivity Commission inquiry as well as a presentation given at *Living on a low income and care in later life*, a recent United Voice and Anglicare forum attended by the Commission.

³⁹ RCNA, 2010: 5.



have the necessary competencies and confidence to conduct work in a safe manner. Issues with the performance of training providers extend beyond aged care and the national vocational education and training (VET) regulator is to be tasked with responding to quality issues in the vocational education sector more broadly. The aged care industry needs to closely monitor the introduction of this national regulator to ensure that the problems described above are adequately addressed.

3.5.5 United Voice solutions for training, skills, qualifications and career paths

Many of the problems described above can be attributed to a lack of clarity as to who is responsible for the training and skill development of the aged care workforce. From a policy perspective, DOHA clearly states that “the training of the aged care workforce is a matter for the aged care industry.”⁴⁰ Yet, for many providers, this is not a priority. For those providers who do invest in their workforce, the possibilities of wage progression are hamstrung by restrictive funding models.

Aged care workers suffer from this reluctance to take responsibility.

Between DOHA, HWA and the CS&HISC, the framework exists to take these issues forward. To better guide these organisations, United Voice asserts that it is necessary for a reformed aged care system to have a more coherent vision that encapsulates the realities of the twenty-first century aged care workforce.

In practical terms, this vision would include the following steps:

- A sustained and systemic attempt at shifting a portion of training, research and policy resources from nursing to personal carers.
- Industry-wide agreement on monitoring the quality of vocational training with a view to standardising training times and quality outcomes. This agreement should follow a review of the adequacy of industry VET programs.
- Industry-wide agreement on incorporating meaningful wage progression into any training agenda.
- Incorporating paid time off for training into funding mechanisms in addition to facilitated inductions involving industry stakeholders.
- Better recognition of the complex skills required in the role of the personal carer or community care worker.
- An exploration of Recognition of Prior Learning and Recognition of Current Competencies as important mechanisms in acknowledging the existing skills of aged care workers through awarding of statements of attainment leading to an aged care qualification.

United Voice Recommendation 7

The Productivity Commission amend draft recommendation 11.3 to emphasise research and policy outcomes that look directly at the training needs and capacities

⁴⁰ DOHA, 2010: 58.



of the personal care workforce. This directive should be implemented by the three organisations responsible for such programs: DOHA, HWA and CS&HISC.

United Voice Recommendation 8

The Productivity Commission recommend that the three organisations responsible for workforce programs, DOHA, HWA and the CS&HISC adopt a clearer vision for the aged care workforce incorporating the following principles:

- *Industry-wide agreement on monitoring the quality of vocational training with a view to standardising training times and quality outcomes.*
- *Industry-wide agreement on incorporating meaningful wage progression into any training agenda. This agreement should follow a review of the adequacy of industry VET programs.*
- *Incorporating paid time off for training into funding mechanisms in addition to facilitated inductions involving industry stakeholders.*
- *Better recognition of the complex skills required in the role of the personal carer or community care worker.*
- *An exploration of Recognition of Prior Learning and Recognition of Current Competencies as important mechanisms in acknowledging the existing skills of aged care workers through awarding of statements of attainment leading to an aged care qualification.*

United Voice Recommendation 9

Employers and their employees should not be constrained by the structure of the Aged Care Award 2010. Indeed, the Fair Work Act 2009 encourages the bargaining of Enterprise Agreements to build on this safety net. Instead of waiting for the unions to address the issues with the minimum safety net through 'Work-Value' or 'Pay-Equity' cases, employers and employees should be building in proper career paths with appropriate incremental advancement into their Enterprise Agreements – recognising skill and experience.

3.6 Licensing of aged care workers

United Voice notes with some enthusiasm the opposition of the Commission to the licensing of aged care workers. United Voice members reiterate their previous position as being opposed to licensing in aged care. Licensing in the industry would:

- Not increase the wages of low paid aged care workers.
- Add administrative burden to providers without significant gain.
- Imply that actions or sanctions could be taken against individual workers, increasing the risk that workers carry burden and responsibility of structural and service provision issues beyond their control.
- Ignore already existing legal means by which to sanction individual behaviour that is criminal or negligent.



- Not solve the problems of workforce training or variable care quality that have led to the calls for licensing; these are best dealt with through improved training and a focus on quality care, as detailed in other parts of this submission.

United Voice Recommendation 10

That the Commission reiterates its previous recommendation not to introduce a licensing system for personal carers.

3.7 Migration employment programs

We have highlighted earlier in this submission industry concerns in attracting and retaining sufficient staff to meet a growing demand for services. In light of the recognised shortfall in caring staff, many providers are understandably looking to migration programs as a solution for their labour problems. United Voice believes that attracting migrant workers is not a panacea for workforce issues in the industry. The priority for both the Federal Government, the primary funder of aged care, and aged care providers should be to improve the quality and status of jobs within the industry, helping to attract and retain the local workforce.

Aged and Community Services Australia (ACSA) represented this view in a recent scoping paper:

““ Overseas workers should not be seen as a long term solution to the workforce dilemmas....industry resource needs to continue efforts to attract more local workers into the aged care sector, remove pay differentials.....improve training, develop career paths, promote innovation and efficiencies to lighten workloads, encourage family friendly work environments and develop our leaders”⁴¹

Reliance on migration to address shortages can reflect a reluctance of employers both to provide wages and conditions to attract locally skilled employees as well as to invest in training and other labour market strategies to attract workers. If any aged care specific migration program is to be established it must not be used as a safety valve to prop up an under-funded, under-resourced Australian industry. Any program must contain the following features:

- Conditions that employers and industry continue to work towards improving their capacity to compete in the local labour market.
- Strict regulation and an enforceable monitoring system.
- Protections that provide conditions and wages to migrant workers equal to those of local employees.
- Links to training and real skill acquisition.
- Recognition of social implications of the migration experience and measures that seek to address social issues that may arise.

United Voice Recommendation 11

⁴¹ ACSA, 2008.



That the Productivity Commission recognise that migration programs should not be used as a stop-gap to prop up an under-resourced and low paid industry. Migration programs alone will not fix current workforce issues, which need to be addressed before any migration programs are considered . In addition, we recommend that the Commission recognise that any migration employment programs contain sufficient safety nets to ensure equitable treatment of workers.



4. Structural change

This section of our submission discusses some of the concerns raised by United Voice members around the proposed structural changes to the aged care industry.

4.1 Increasing competition in the aged care industry

The most dramatic and pervasive change envisioned by the Commission is opening up the industry to increasing competition. This will be achieved by ‘relaxing’ current restrictions around both the prices and supply of services, leading to a “more liberated market of service providers.”⁴² The Commission sees the following benefits arising from increased competition:

- i. Higher levels of quality, which would be seen as a competitive advantage.
- ii. Higher levels of efficiency, which is driven by consumer discipline; that is consumers having greater choice forces providers to improve efficiency.
- iii. Higher levels of innovation, as providers are forced to be creative to compete for consumers needs and wants.
- iv. Increased entry and exit of providers from the market; that is, more providers starting up as well as more providers closing their businesses. This in turn encourages efficiency and competition.
- v. Lower prices, particularly with regards to accommodation bonds, as providers are forced to compete in a more open market.

For the Commission, a more competitive market revolves around the notion of consumer choice. As stated in (2.1) of this submission, **United Voice is supportive of efforts to increase the range of services available to older Australians.** Despite this support, a fundamental difference exists between the calls for increasing choice from consumers and the economic theory underpinning the Commission’s analysis and subsequent recommendations.

“Efficiency is driven by effective consumer discipline, which requires that consumers can exercise real choice, and is enhanced when people pay for their own services.”⁴³

United Voice asserts that there exists substantial differences between aged care and other industries, such as retail, that are more obviously driven by consumer choice. The Commission notes that deregulation in infrastructure industries such as electricity and telecoms have helped to make them “more responsive to changing consumer needs and preferences” and has “improved the quality of services”.⁴⁴ United Voice asserts that these are unsuitable industry models to apply to aged care. To compare a person exercising choice within aged care with someone exercising that same choice with respect to a new mobile phone or broadband service is

⁴² p268

⁴³ p64.

⁴⁴ p251



inappropriate and unrealistic. **United Voice calls on the Commission to demonstrate evidence of human services industries where increasing competition has led to outcomes (i) – (v) listed above.**⁴⁵

The Commission cites the deregulation of the childcare industry as “enhancing consumer choice”, allowing the sector to respond “more freely to changes in demand instead of places being administratively allocated”.⁴⁶ Referencing childcare in this way shows a thorough misunderstanding of the industry. What choice did the parents with children in ABC Learning centres have when the company collapsed in November 2008? Childcare, like aged care, is fundamentally about the quality of the service provided, not an exercise in unfettered consumer choice. The deregulation of the childcare industry and the advent of demand side funding has led to enormous cost increases for the Federal Government, predatory corporate behavior and a workforce that is characterised by a crisis in both skill level and wages. Discussing the advent of choice in isolation from these other consequences of reform is both inappropriate and misleading.

Even in a reformed aged care system, will there be enough ‘consumer discipline’, to drive the incentives imagined by the Productivity Commission? In addition, will consumers exercise this choice in the manner that the Commission predicts? Section (2.1) of this submission outlined five ways in which consumer choice will continue to be restricted under conditions of the ‘liberated market’. **United Voice asserts that the underlying notion of consumer discipline driving market competition is neither realistic nor appropriate to the aged care industry.**

United Voice recognises that structural reform will have both positive and negative impacts upon the industry, consumers and workers. The draft report has already emphasised in some detail the theoretical benefits of structural reform. Sub-sections (4.1.1) – (4.1.4) of this submission aim to instead unpack some of the potentially negative impacts of reform, particularly for low income consumers and the workforce. In doing so, we raise questions rather than pose solutions.⁴⁷

4.1.1 Effects of competition: industry structure

The Productivity Commission asserts that a liberated market would lead to an increasing frequency of entry and exit of providers from the industry. This is a reasonable conclusion, however it begs the question of whether or not this is desirable? In addition, significant questions remain over the future structure of the industry, particularly with respect to ownership between for-profit and non-profit providers.

⁴⁵ For a further analysis see presentation given by AP Michael Fine at *Living on a low income and care in later life*, a recent United Voice and Anglicare forum attended by the Commission.

⁴⁶ p251

⁴⁷ The analysis in 4.1.1-4.1.4 draws on the work of Bob Davidson of the Social Policy Research Centre, UNSW as well as conversations between United Voice, Bob Davidson and his colleagues.



United Voice would ask the Commission and the industry to consider the following when assessing the impact of structural reform:

- What would be the role of the Government and specifically, DOHA, in the event of the increasing frequency of aged care providers ‘exiting’ the market. That is, going bankrupt and/or selling their businesses? Given the extremely sensitive nature of the operations of aged care services, is it desirable for older Australians, providers or the government to encourage an industry where increased competition raises the risk of business failure or constant industry turnover?
- What are the modelled effects on the structure of the industry, that is, the split between for-profit, non-profit and government providers of services? Is it desirable that the current industry structure changes significantly? As was demonstrated in the childcare industry, consolidation of businesses can occur rapidly, often to the detriment of consumers. Importantly, what are the effects on consumer choice under these circumstances?
- United Voice points both the Commission and the industry to examine the effects of structural reform upon the residential aged care industry in New Zealand. From the late 1980’s onwards, there was a dramatic shift in ownership structure, resulting in the almost complete exit of the non-profit providers from the industry and an increasing incidence of for-profit provision. Would a similar shift be more likely under the Commission’s proposed reforms?
- A key issue in an increasingly competitive market for aged care services is the ability of providers to effectively ‘advertise’ to consumers. Advertising for business requires resources and upfront capital. Who will be best placed to commit these resources? United Voice would point the Commission to the work of Professor Gabrielle Meagher concerning the effects of increasing competition and marketisation on the homecare industry in Sweden as an example of the deleterious effects of increasing competition on human service industries (REF).

4.1.2 Effects of competition: workforce

The effects of deregulation and increasing competition are also an unknown quantity. The Commission posits an increase of funds into the industry as leading to “consequential improved workforce conditions.”⁴⁸ United Voice questions this assumption. The history of previous structural reforms in the aged care industry, as outlined in section (3.3.2), have been extremely negative for the aged care workforce. In short, United Voice would pose the following as untested impacts of reform:

- Providers will face a gradual shift from secured revenue, through allocated bed licenses, to insecure revenue, from consumers needing to choose an individual provider in a competitive market. Insecurity of revenue and income will become more pervasive, although this effect will be uneven throughout the market. Labour costs throughout the industry are high, accounting for 75% of providers’ expenses. What will insecurity of revenue mean for the employment tenure offered to workers? **How will employers be able to offer stable, secure**

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employment when labour costs are by far their biggest expense and corresponding revenues are unstable and uncertain?

- Employment stability is a key factor in providing quality care. However, precarious employment is already a feature of the industry with high levels of both casualised and ‘flexible part-time’ work, where workers are employed on a casual basis without the requisite casual loading. Consequently, what are the effects of revenue insecurity on the quality of care offered to consumers? Furthermore, in a market of constrained choice, does this increasing competition actually lead to decreased choice for consumers?
- Offering stable employment is a proven method of increasing employee retention. Retention is particularly important in the community care setting where clients develop a relationship of trust with the community care worker who visits them regularly. This allows for continuity of care, which is associated with positive outcomes for clients.
- Decreasing employment stability leads to workers being engaged increasingly on a casual basis. In an industry where workers are already low paid and struggle to gain enough working hours, this is neither desirable nor fair. In other industries where revenue instability is the norm, the implications for the workforce have been dire, with a particular emphasis on contracting out and sub contracting of employment relationships. Sub contracting removes a layer of responsibility from the employer and offers substantially fewer benefits and protections for workers. Sub contracting in a deregulated aged care system would make it increasingly difficult for the consumer to make an informed choice⁴⁹. How would the proposed Seniors Gateway relay information to consumers in a system where the sub-contracting of services was the norm? How would quality be effectively regulated? What protections would there be for workers?

4.1.3 Effects of competition: a way forward?

At the beginning of this submission, United Voice asserted its support for the process of reform. In addition, United Voice supports reforms that increase the choice available to older Australians who need care and support. Before this process can commence, United Voice asks the Commission to provide the industry and the community with a fuller discussion on the potentially negative impacts of reform as outlined in sections (4.1.1) – (4.1.3), noting the impacts that constrained choice, as outlined in (2.1) will have on the market for aged care services. United Voice makes special note of the potentially negative impact that reform will have on the workforce and low income consumers.

United Voice Recommendation 12

United Voice calls for the Productivity Commission to produce greater evidence from other human service sectors to support its theory of liberated markets resulting in higher levels of efficiency, innovation, quality and lower prices.

⁴⁹ In addition, sub contracting entails increasing costs to government due to difficulties in compliance and enforcement of quality and labour standards.



United Voice Recommendation 13

United Voice calls for the Productivity Commission to provide the industry and community with a fuller discussion on the impacts of reform, taking particular note of the negative impacts on the workforce and low income consumers.

4.2 Consumer directed care and the cashing out of entitlements

United Voice supports the Commission's reservations against cashing out entitlements with regards to Consumer Directed Care (CDC).⁵⁰ Giving entitlements as cash has a number of significant implications with regards to the quality of services and particularly for the workforce. Some of these considerations include:

- The employer/employee relationship if workers are employed on an individual basis by older Australians. International experience demonstrates that the majority of older people do not want to be in this position. In addition, this form of employment tenure is detrimental to the workforce and would result in wage stagnation and difficulties over the monitoring and enforcement of adequate working conditions.
- If cashed out entitlements can be used to employ family and friends, there are concerns over the quality of services delivered. There is no realistic or enforceable mechanism with which quality standards could be monitored and enforced across the industry. It would not be possible to include these services as part of industry quality norms. The immediate consequence of this outcome would be to send regressive signals regarding quality to the remainder of the industry.
- Cashing out entitlements increases the fiscal risk for the funding body, the Federal Government. The experience of a similar system in the childcare industry has led to price inflation and corresponding increases in the levels of government funding.

4.3 Transition issues

United Voice has noted the Commission's statements that it will not prescribe the fine detail of a transition plan. To assist the Commission, the following principles should apply:

- As argued in this submission, structural reform has (3.3.2) and will continue (4.1) to have large impacts on the workforce. Workforce issues should be considered throughout the transition process, not merely as a separate category.
- The implementation of the AACRC should be made a priority.
- Immediate action should be taken to increase the wages of aged care workers, in line with the recommendations outlined in (3.3).
- Attention should be given at all times to the impact of structural reform on quality.

United Voice looks forward to further discussions with the industry around the transition process.

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5. United Voice members as consumers of aged care

5.1 Re-imagining safety nets in aged care

5.1.1 Lower income groups

In section (2.1) of this submission, we argued that even in a reformed aged care system offering consumers greater choice, the range of choices was still likely to be constrained. Choice will be most constrained for those consumers in lower socio-economic groups. A move to individual entitlements and a focus on individual responsibility to ‘choose correctly’ from a range of providers paradoxically leaves low income earners with less choice in terms of access to quality services. United Voice would point the Commission to the work of Professor Barbara Pocock who argues that as government opens up services to the market, an illusion of choice emerges which obscures the fact that there are structural factors that “shape the lot of the individual.”⁵¹ Lower income people will necessarily have less choice than wealthier individuals – this is in itself obvious and unavoidable. Indeed, the current system also provides for less choice for this same group. What is more concerning is that the “risks associated with poor quality care are not evenly spread”, falling disproportionately on low income people.⁵²

For this group of older Australians, ensuring that all providers are offering quality services is critical. United Voice asserts that this is not recognised sufficiently in the draft report. Furthermore, United Voice asserts that increasing competition for aged care services constitutes a shift in risk from government to low income consumers. That is, the risk of suffering from low quality services now falls upon the consumer, with lower income consumers disproportionately less able to navigate these risks. Examples of this shift in risk include:

- *Distributional concerns in residential care:* Whilst higher socio-economic areas already enjoy more quality aged care services than lower socio-economic areas, geographical inequities may become entrenched if providers are afforded the ability to trade supported places within aged care regions. Whilst ostensibly this is a question of choice and providers can simply choose not to take on a greater proportion of supported places, it is likely that a situation will emerge where supported places are concentrated in specific facilities in specific areas. **United Voice is concerned that this represents a reduction in choice for low income consumers.**
- *Distributional concerns in community care:* It is unclear how the proposed system will ensure service availability for low income clients with complex needs for which the market is less likely to respond. Whilst higher income clients may be able to pay for care tailored to their specific needs, low income clients may find that no service provider is willing or able to take them on. There remains a need for government-funded services to meet needs in these instances.

⁵¹ Pocock, 2010: 144.

⁵² Pocock, 2010: 159.



5.1.2 The Australian Seniors Gateway

United Voice recognises that there will be significant sections of the community for whom higher levels of income and wealth will allow them greater choice between services. For these older Australians, the reforms proposed by the Commission position the consumer as the focal point and the process of choosing services as the crucial interaction with the system. The notion of consumer choice will be primarily exercised through the Australian Seniors Gateway, which as envisioned by draft recommendation 8.1 would “provide information on healthy ageing, social inclusion and participation, age friendly accommodation, and also information on the availability, quality and costs of care services from approved providers, and how to access those services.”

United Voice members strongly support the recommendation to establish the Australian Seniors Gateway Agency.

Following on from our arguments in (2), the key piece of information that consumers will need to make an informed choice will be the *quality* of services on offer. The draft report provides little detail in this regard. Examples of possible quality indicators could include:

- The number and skill mix of staff working in the residential or community care service.
- The number and frequency of use of agency staff, indicators of staff turnover and wage rates.
- Including staffing information would necessitate the publishing of the case mix of residents and clients.

United Voice looks forward to working with the industry in developing robust quality indicators for use by the new Gateway Agency.

Quality indicators should be seen as an additional measure to drive quality and help consumers have a more informed choice regarding aged care services. As discussed elsewhere in this submission (2.1-2.2), quality will still be driven overwhelmingly by government interventions, workforce and structural change.

5.1.3 Community care

United Voice notes the particular risk of variable quality in community care. The dispersed nature of community care increases the difficulty in both the monitoring and enforcement of quality standards. This difficulty means that the potentially negative impacts of structural reform on quality, as outlined in (4.1), will have a disproportionate impact in the community care sector. United Voice asks that the Commission takes this into consideration during the process of reform.



5.2 Paying for aged care

United Voice welcomes the work of the Commission in trying to find solutions regarding funding structures. In general, United Voice supports the principle that those who can afford to contribute more to the cost of their care should do so. United Voice members have raised concerns over the funding proposals in the draft report. For example, the Commission sees that the level of co-contributions are a key way in which future governments can control their level of fiscal risk. In light of this, United Voice has concerns over the future increases in potential co-contributions, particularly for low income earners.

United Voice also notes that the Commission is due to release more detailed modeling regarding individual circumstances under the proposed new funding system. United Voice asks the Commission to release this modeling as soon as possible in order to inform and stimulate debate.

5.3 Housing

Housing is a key issue for United Voice members, the wider community and older Australians more generally. United Voice agrees with the Commission that the interface between aged care and affordable housing, including social housing, is increasingly important as older people choose to receive care in their homes.⁵³ For low paid workers approaching retirement, housing can be a source of anxiety:

- For those who still have a mortgage, they may be forced to remain in low paid, precarious employment. For those in poor health or those caring for relatives, they may be unable to work and may lose their home.
- For those who are renting, the Commission notes that they are particularly vulnerable with issues of less security of tenure and less wealth than home owners.
- For those who have paid off their home, they could downsize to more appropriate housing, but there are opportunity costs such as loss of community links and reduced access to services including health care in their new community.

United Voice supports the Commission's calls for greater support for housing and in particular an expansion in support for affordable rental housing for older Australians.

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Appendix A: Comparison of Metals Trades Agreements

Agreement Name	Effective C10 Rate	Notes
<i>Joy Mining Machinery (Moss Vale Site) Certified Agreement 2006</i>	\$24.97	This agreement provided a final pay increase in 2008. The C10 rate after that increase is \$24.97.
<i>Joy Mining Machinery Illawarra Facility Workplace Agreement 2007</i>	\$24.62	This agreement provided for a final pay increase in 2009. The C10 rate after that increase is \$24.62 per hour.
<i>Top Hat Manufacturing Union Collective Agreement 2006</i>	\$24.04	This agreement provided for a final pay increase in 2008. The C10 rate after that increase is \$24.04 per hour.
<i>Dux Manufacturing Limited, Moss Vale GWA (Union Collective) Work Agreement 2008</i>	\$26.71	This agreement provides for a wage increase in 2010. The C10 rate after that increase will be \$1014.98 per week or \$26.71 per hour.
<i>General Mills Australia – Mount Waverley Maintenance Enterprise Agreement 2007</i>	\$28.87	This agreement provided for a wage increase in 2009. The agreement does not specify a C10 rate but provides a C8 rate. The C8 rate after the 2009 increase is \$31.76 per hour for a fitter. The C8 rate is 110% of the C10 rate. This would equate to a C10 rate of \$28.87 per hour.
<i>CNAB Pty Ltd Maintenance Agreement 2006</i>	\$26.73	This agreement provided for a wage increase in 2008. The C10 rate after that increase is \$1015.72 per week or \$26.73 per hour.
<i>Buffalo Trident Collective Agreement 2006</i>	\$24.10	This agreement provided for a wage increase in 2008. The C10 rates after that increase is \$24.0986 per hour.
<i>Belle Banne (VIC) Pty Ltd Latrobe Valley Enterprise Bargaining Agreement 2006</i>	\$34.01	This agreement provided for a wage increase in 2008. The C10 rate (which is defined as a Beltworker 3.5) after that increase is \$34.01 per hour.
<i>ALSTOM Power Limited South Australia Power & Industrial facility Mechanical Maintenance and Refurbishment, Workplace Agreement 2006</i>	\$25.11	This agreement provided for a wage increase in 2007. The C10 rate following that increase is \$954.16 per week or \$25.11 per hour.
<i>G H Varley Pty Limited Carrington Union Collective</i>	\$25.62	This agreement provided for a wage increase in 2008. The C10 rate after



<i>Agreement 2006</i>		that increase is \$25.62 per hour.
<i>Rapid Growth Project ThyssenKrupp Engineering (Aust) Pty Ltd Metal Trades Collective Agreement 2006</i>	\$32.09	This agreement provided for a wage increase in 2009. The C10 rate (Metal Tradesman) following that increase is \$1219.30 per week or \$32.09 per hour.
<i>Emersteel Certified Agreement 2006</i>	\$23.89	This agreement provided for a wage increase in 2008. The C10 rate after that increase is \$23.89 per hour.



Appendix B: Aged Care Award 2010

Extract from the Aged Care Award 2010. Refer to the Fair Work Australia website for more details: <http://www.fwa.gov.au/index.cfm?pagename=awards>

Classification	Per week
	\$
Aged care employee—level 1	606.00
Aged care employee—level 2	631.00
Aged care employee—level 3	656.00
Aged care employee—level 4	663.60
Aged care employee—level 5	686.00
Aged care employee—level 6	723.00
Aged care employee—level 7	736.00



Appendix C: Childrens Services Award 2010

Extract from the Children Services Award 2010. Refer to the Fair Work Australia website for more details: <http://www.fwa.gov.au/index.cfm?pagename=awards>

Classification		Minimum weekly rate	Minimum hourly rate
		\$	\$
Support Worker			
Level 1.1	On commencement	583.00	15.34
Level 2.1	On commencement	605.30	15.93
Level 2.2	After 1 year*	626.20	16.48
Level 3.1	On commencement	663.64	17.46
Children's Services Employee			
Level 1.1	On commencement	583.00	15.34
Level 2.1	On commencement	605.30	15.93
Level 2.2	After 1 year*	626.20	16.48
Level 3A.1**	On commencement	653.38	17.19
Level 3A.2**	After 1 year	663.64	17.46
Level 3.1	On commencement	663.64	17.46
Level 3.2	After 1 year*	686.44	18.06
Level 3.3	After 2 years*	708.10	18.63
Level 3.4 (Diploma)		747.24	19.66
Level 4A.1	On commencement	708.10	18.63
Level 4A.2	After 1 year*	717.98	18.89
Level 4A.3	After 2 years*	727.86	19.15
Level 4A.4	After 3 years*	738.12	19.42
Level 4A.5	After 4 years*	748.00	19.68



Level 4.1	On commencement	781.82	20.57
Level 4.2	After 1 year*	793.60	20.88
Level 4.3	After 2 years*	805.38	21.19
Level 5A.1	On commencement	817.54	21.51
Level 5A.2	After 1 year*	829.32	21.82
Level 5A.3	After 2 years*	841.10	22.13
Level 5.1	On commencement	817.54	21.51
Level 5.2	After 1 year*	829.32	21.82
Level 5.3	After 2 years*	841.10	22.13
Level 5.4***		844.14	22.21
Level 6A.1	On commencement	942.56	24.80
Level 6A.2	After 1 year*	954.34	25.11
Level 6A.3	After 2 years*	966.12	25.42
Children's Services Employee—Director			
Level 6.1	On commencement	942.56	24.80
Level 6.2	After 1 year*	954.34	25.11
Level 6.3	After 2 years*	966.12	25.42
Level 6.4	On commencement	1002.22	26.37
Level 6.5	After 1 year*	1011.34	26.61
Level 6.6	After 2 years*	1023.50	26.93
Level 6.7	On commencement	1035.66	27.25
Level 6.8	After 1 year *	1047.44	27.56
Level 6.9	After 2 years*	1059.22	27.87



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