

**A SUBMISSION ON THE PRODUCTIVITY COMMISSION'S JAN 2011 DRAFT
REPORT ON "CARING FOR OLDER AUSTRALIANS"
MY CONCLUSIONS**

1 FEE STATISTICS: the draft Report fails to set out under the existing and proposed systems, the fees payable by Govt. and main resident groupings (full & part pensioners etc) with ave, indicative or typical income/assets, own & non-homes (rent & sale basis), incl. caps, supplements, bonds & extra services: absolutely essential for Terms of Reference judgments on balance between stakeholders

2 a Distinction in needs etc between High and Low care residents is realistic and must continue in order to ensure proper balance in fee structure, adequate servicing & accommodation by providers

b Proposed Gateway would be better located as a Division of DHA on admin. criteria

3a GATEWAY should provide intending residents with schedules on Options

b PC to clarify responsibility for means-testing by Gateway, Centrelink, DHA, DVA etc and the proposed need for All residents to be means-tested

4 BONDS REPRESENT THEFT & EXTORTION & SHOULD BE ABANDONED: ACAT classifications of eligibility of applicants for residential aged care evidence that these ill aged are unfit to "negotiate" & make the associated end-of-life decisions. "Bonds" are ineffective fund-raisers, introduce discrimination into the aged care system and are unique & without precedence in Australian commercial life & society. Bonds and retentions should be refunded and discontinued. Accom. should be paid as every where else, as "rent" & as recommended by PC, calculated on a Cost basis

5 "EXTRA SERVICES" ie higher standard of food etc, is a nebulous concept which should continue in fees and licensing arrangements but the standards and definitions should be subject to review and audit

6a It is fair that aged care residents should be charged for accommodation but only as "Rent" on a strict Cost basis for the actual space occupied. b This rent should be amongst the dissected & total fees for each provider, published & available to improve the knowledge and options of intending applicants

7 Given that future rent would be charged on a "cost" basis and no "Bond", there is no need for PC's option of paying rent by a "lump sum" because this raises added difficulties about the appropriate interest rate, the term to be used and refund policy

8 Option to pay lump sum for Total fees is also not favoured for the above reasons

9a Aust Pensioner Bonds : not favoured to introduce a special category because there may be many other worthy individuals overlooked, ie persons on part or minor pensions, veterans on service pensions or disability allowances, war widows etc

9b Govt-supported equity loans: not favoured. Many institutions now offer equity loans and reverse mortgages. 9a&b seem contrary to the views advanced by PC to favour inclusion of family home in means testing

10 Life-time limit on aged care fees: PC would need to indicate (a) the agency which would keep account of the accumulation of fees or (b) whether the limit would be more simply, a time period of say 5/10 years

11a If the Lifetime limit was a fee basis, this could be the elusive "Insurable risk" which individuals in the community could be required or encouraged to insure against.
b Broadening the funding base for aged care: needs a separate study.

Queries:

1 Has the PC got the Balance right ? Is the Inquiry intended to raise the general level of fees on the (mistaken) view that more aged and dementia etc in the future, means the per person fee has to rise to help the Govt. and providers?

2 The PC uses an average rate of 8+% pa in a table as being an achievable investment rate. What a wish!

3 Present system's use of a Penal interest rate to apply when the (immutable) Bond has been "negotiated" and not yet paid, but the new resident is too ill to himself dispose of the contents of the family home, has no family available for this onerous task, has to "dither" over a 12 month period about the rent or sale of the home, and having virtually no cash, has to borrow from a bank merely to keep pace with the mounting Penal interest bill being charged on the "negotiated" Bond. Is the proposed system offering any choice, redress or comfort to this common and real-life situation ? I am afraid not!

4 For statistical work, why not use the available facilities of the experts, ie the Australian Bureau of Statistics ? Who would claim that the CPI is necessarily the appropriate index for updating aged care costs ?

John P McAuley 4.2.2011

A SUBMISSION ON THE PRODUCTIVITY COMMISSION'S JAN. 2011
DRAFT REPORT ON "CARING FOR OLDER AUSTRALIANS".

1 INTRODUCTION

I have practical experience in aged care.

A sibling of mine is presently in high care; another sibling is in low care; I am presently in self care within a large retirement village with many hundreds of other persons in self, low or high care; I have been a full-time carer over about ten years, for an ACAT-classified high care family-member; I have guided friends who have had to enter residential care; I have spent terms as a member of a policy committee of a major national body for aged persons, and as a Member of the Administrative Appeals Tribunal, I had a life-long career as a research economist and I made a number of submissions to the 2004 Hogan Review.

The draft Report of the PC represents a commendable work. The Report covers many issues which are intertwined, in consequence of the PC's particular Terms of Reference, is a useful data base and will assist the many stakeholders with a wide variety of interests.

Unfortunately, these strengths of the Report also result in difficulties. Much of the material is of background information or of interest mainly to those particularly concerned with specialist areas, as evidenced by the fact that much of the material did not warrant a place in the Report's "Key Points".

Another difficulty is that readers generally may have problems in identifying priorities in the arguments and hence the more important decisions of the PC. amongst the wealth of data presented. The Report may well be read and the principles welcomed but the nature of the new system and the fine differences from the existing one, may elude some readers.

As my special interest is in Residential aged care, and indeed the Report's Key Points are only concentrated on this area, my submission would seek to appraise the major departures being proposed, and accordingly, to identify the major winners and losers under the proposals.

Unfortunately, this is nearly an impossible comparison because, despite the voluminous size and excellence of material in the Report, it fails to provide the key statistics for present and proposed systems, in tabular, comparative form.

It does not state under both systems, the precise daily fees payable by residents and Govt. under each category and in total, including caps, supplements, extra services and Bonds, for typical representatives of the main resident stakeholders, namely, full pensioners, part pensioners, others, and with and without own-homes disposed on a rent or sale basis after entry to aged care residence, and with typical, average or indicative income and net asset amounts.

These essential statistics are the kind of calculations the average financial planner is expected to produce as a matter of course when advising an applicant for entry to aged care. My first Conclusion 1 (C1) is that the PC should publish these fee statistics in its final report.

Without these statistics and relying alone on "principles" or wishes of particular stakeholders who made submissions, it is difficult to accept that readers are in a position

to make informed judgments about many of the issues posed in the Terms of Reference.

As the final Key Point on page XX indicated, there is no insuperable problem for the Aust. Govt in the foreseeable future despite the major and inevitable demographic changes and health conditions, because the Govt. has the capacity to "manage its fiscal exposure" by taking the appropriate measures available to it.

The question therefore resolves around (1) whether the co-contributions for the main types of residents ought to be significantly altered and whether the balance between the various types of resident stakeholders needs to be altered for an improved system; and (2) whether the re-shuffled fees amongst residents is satisfactory from the viewpoint of providers. "Principles" are fine but statistics can be more conclusive.

2 THE MAJOR CHANGE PROPOSED: TO REMOVE THE HIGH & LOW CARE DISTINCTION

Some of the Key Points of the PC's proposals could be considered of an administrative nature rather than essentials of its preferred system for financing aged care.

Removal of distinction between High and Low care residents seems the most radical and least meritorious of all the recommendations because this conflicts with reality. The Report quotes Mercy Aged Care (pg 116) as indicating that long periods of one-to-one care needed in some cases are not adequately recognized in the current \$30 per day maximum supplement for behavioural support.

The reality is that the health, care, personal needs and average duration of stay in residence, of the typical High care resident is much different than for the typical Low care resident. To obscure this fact would be to overlook the differing care needs of aged persons quoted prominently in the Policy Objectives and Terms of Reference. To treat both classes as identical in order to extend liability for Bonds to all High care residents would be farcical and hypocritical, bearing in mind the observations on Bonds, the harassments of ill and desperate aged persons caused by Bonds, and the discrimination amongst applicants introduced by Bonds described in the Report.

C2: that the distinction between High and Low care residents corresponds with reality and should continue.

3 PREFERRED FINANCIAL SYSTEM FOR AGED CARE

The Terms of Reference given to the Productivity Commission (PC) requested it inter alia, to develop "funding options" for aged care, reflecting the "care that older people need and want", allowing "providers to generate" appropriate "revenue streams", are "financially sustainable for Govt. and individuals with appropriate levels of private contributions", and bearing in mind "the medium and long term fiscal implications of any change in aged care roles and responsibilities".

In short, it means that the PC is being invited to recommend its preferred financial system for aged care.

The existing system, its cumbersome ramifications and the stakeholders' disparate views on it have become so varied and complex that few except full-time specialists have ready knowledge of the system, and certainly few older persons. The PC foresees the necessity of establishing an Aust. Seniors Gateway Agency to

handle some aged care functions. I would question whether the Agency would best be established as a Division of the DHA where expertise and information on aged care is centred.

A person applying for or contemplating entry to residential aged care usually faces a number of important financial decisions affecting pension rights, home rent or sale and so on. To assist, contact with specialists at Centrelink or DHA may be essential though sometimes difficult to arrange. Some major providers advise contact with a nominated "independent" financial planner who would charge a fee.

Though the finances of individuals may vary in fine detail, they would generally fall within a relatively small number of groupings and averages could be used.

My experience is that the typical suburban solicitor or accountant is seldom able to provide the advice needed but that qualified and experienced planners willing to charge a modest fee for what should largely be public knowledge, are too few in number.

C3: that the functions of the proposed Gateway agency include that of providing to enquirers, written financial statements aligned with the finances of enquirers, showing the implications of relevant options available; also that the PC further clarify its proposals covering the means-testing roles of Centrelink, DHA, DVA and other agencies, and clarify the need for making imperative, means-testing for All applicants.

4 ELIGIBILITY FOR RESIDENTIAL CARE & CAPACITY FOR "NEGOTIATION"

ACAT determines that eligibility for residential aged care should be confined to persons of serious ill-health. The existing system overlooks and breaches this fact because it assumes falsely that applicants are of sound mind or otherwise fit to "negotiate" with providers in making the decisions associated with entry.

In general terms, ACAT determines that an aged person is eligible for subsidised residential aged care if the person is seriously disabled, or suffering from a chronic mental or physical illness, or is demented or clinically depressed, and has no adequate carer to enable the person to remain in his or her present home.

It is obvious from the above that applicants for residential aged care, whether for low care or high care with extra services, by virtue of their prior ACAT classification are not to be considered as persons who are personally fit to "negotiate" with providers on accommodation bonds and on the important associated decisions, such as the Bond amount which may range between \$300,000 to \$1M+, the mode of payment of the Bond, whether to rent or sell the family home and so on.

It is also wrong to assume that the applicant has a relative or friend capable of "negotiating" on the applicant's behalf in these long-term, end-of-life decisions because ultimate responsibility rests with the applicant.

It is safer to assume that most applicants are desperate and very ill, possibly fragile persons, with few options, forced by circumstances to give up independence in the community, with no adequate knowledge of alternatives, and utterly defenceless and vulnerable.

The Henry Report described Bonds as a tax. It is more appropriate to describe Bonds as theft and extortion. Persons who applaud the bond system are a disgrace.

The Aust. National Audit Office has criticised the systemic defects of the accounting for Bonds.

Bonds introduce discrimination amongst applicants for entry.

The Bond system has no parallel nor precedent in Australian commercial life. The PC Report quotes one correspondent as rightly complaining that there is no place for it in our "society".

Whilst the defencelessness, ignorance and vulnerability of applicants account for the continuance of the bond system to date, the possibility of class or individual legal actions and substantial damages against Govt. and providers is an ever-present possibility.

These forms of "Bonds" are inefficient fund-raisers. Not only do they create endless anxiety for defenceless old people, but ultimately all the funds have to be returned to the residents or their estates, providers keeping only the "retention" money which is usually additional to the Bond in my experience.

C4 : that the Bond system be abandoned forthwith, that existing Bond funds be returned to residents over a 1 or 2 year period and that retentions already received, be refunded and discontinued immediately.

In the event that Bonds are not abandoned forthwith, it would be recommended that each provider seeking to "negotiate" a Bond, has to supply to the authorities a statutory declaration that the applicant was considered of sound mind and in all respects was a fit person to "negotiate" the Bond, and to provide evidence to substantiate this declaration.

5 ABANDONMENT OF "EXTRA SERVICE" DISTINCTIONS

My fear is that the intended abandonment of "extra services" enables providers to create a proliferation of fees for newly entitled "nursing tasks" or other services. The Report does not detail; any limit nor financial ceiling on future extra services and the PC does not elucidate the standards on which the extra services would be based. Is it satisfactory that each provider sets its own standard? The Cwlth can be insulated from the likely extension of aged care costs to be borne by residents from this source..

C5 is that in the absence of safeguards, existing costings and licensing of extra services should continue but that the standards and components of extra services be subject to re-examination of definitions and periodic audit by the authorities..

In regard to Key Point no 8, I would assert that the Health condition of the resident may often be the essential fact, rather than that the resident is a person necessarily "free" to "choose" between additional services and quality of accommodation. It is unreal to equate residential aged care with the range of choices from a suburban supermarket.

My fear is that the Report's approach may reflect in basic standards that are set too low, with the system leaving providers with excessive scope for raising revenue from revamped extra services.

C6: THAT "RENT" REPLACES ACCOMMODATION CHARGES & BONDS

I agree with the Report that residents should be charged for the "real" cost of accommodation ie the space occupied, but I believe that the term in common use, "rent" is more appropriate and potentially less misleading. Local real estate agents are usually experts in quoting rents and could be called upon to advise or confirm.

In residential aged care, the residents ought to be charged rent for the depreciated value of the space occupied for bed, chairs and other furniture, whether shared or sole room-occupancy, plus a due proportion for shared communal facilities. If a resident is immobile or otherwise not using some or all of the communal facilities, an appropriate adjustment would be in order.

My C6 includes a requirement that providers publish their total and dissected fees, including their rent.

7 RENT TO BE CHARGED ON A DAILY (CONVERTIBLE TO WEEKLY BASIS) LIKE ALL OTHER FEES FOR RESIDENTIAL AGED CARE

The difficulty with the option of paying by "an equivalent bond" – Key Point 6 – is that a bond (assumably) requires the use in the conversion, of an interest rate, term and provision for refund. Commercial interest rates have a habit of varying over time and this can and does cause havoc in aged care calculations.

Given that Bonds are or should be abandoned in the future, there remains no good reason why rent/accom. charge should be chosen as an expense payable at option by a lump sum. C7: I would delete this option.

8 C8: AN OPTION TO PAY TOTAL RES. AGED CARE FEES AS A LUMP SUM.

I would omit this option. PC has not made a good case for it. PC would need to explain how the appropriate interest rate(s) would be fairly chosen, term to be used, and the basis for repaying in the event of resident dying or leaving the provider's residence. Presumably a justification could be a possible beneficial effect on pension rights in the event of sale of the family home. But is not PC in favour of the principle of means-testing to include the family home?

9 AUST. PENSIONERS BONDS AND GOVT SUPPORTED EQUITY LOANS

Loans against equity in homes are available from banks and other financial institutions but standardisation and govt.-support have merit. The pioneer firm in Australia offering equity release was one that started in the 1970s and now it is almost commonplace I believe. I would replace "Bonds" with the term "securities".

However, I am not in favour of the proposal because it introduces unnecessary discrimination in the means-testing. Other categories of aged persons might equally warrant the benefit of the proposal, such as part-pensioners, veterans and war widows but I believe the complication is not warranted.

10 ACCOUNTING FOR ACCUMULATED AGED CARE FEES IN ORDER TO IMPOSE THE PROPOSED LIFETIME LIMIT

On-going calculations of accumulated care fees in relation to the proposal for a lifetime limit could be onerous. Which agency would have this responsibility? Would fees for all services including those at own home, and the effects of inflation

over time be included for this purpose, so that only the total time spent in residence would be relevant and need be recorded ?

11 OPTIONS FOR BROADENING THE FUNDING BASE: CHAPTER 7

This is an important chapter but the PC has put no specific proposals .in its Key Points .

Regarding the possibility of persons insuring against aged care costs, I believe there is difficulty in defining the appropriate insurable interest involved, but it would seem appropriate for the PC to request advice and quotes from say three underwriters. on the basis of cover against the stated life-time limit on aged care costs.

The expanding cost of future aged care for the Aust Govt. is reasonably discernible on likely systems. The creation of a relevant fund to cater for extraordinary costs , would seem to find favour from those wishing to have a fund to cover future national emergencies, disasters and similar contingencies. My response is that Australia already has such a fund and it is called the Budget.

On savings and superannuation schemes to provide new sources of funds for aged care, this is substantially a separate study and I could be interested in later making a separate submission if conceivably of use

John P McAuley

4.2.2011