

UNCLASSIFIED



THE HON SCOTT MORRISON MP

Prime Minister

THE HON GREG HUNT MP

Minister for Health

THE HON KEN WYATT MP

Minister for Senior Australians and Aged Care

JOINT MEDIA STATEMENT

Tuesday, 9 October 2018

APPOINTMENT OF ROYAL COMMISSIONERS AND TERMS OF REFERENCE

Our Government has recommended that the Governor General appoint the Honourable Justice Joseph McGrath and Lynelle Briggs AO as Royal Commissioners into Aged Care Quality and Safety.

Justice McGrath and Ms Briggs bring strong investigative skills and extensive experience in corporate and public sector governance to the Royal Commission.

Our Government wants to ensure Australians have access to the level of care and support each person would expect for themselves.

A key task of the Royal Commission will be to help build a national culture of respect for ageing and older Australians.

Justice McGrath was appointed a Judge of the Supreme Court of Western Australia in November 2016. Prior to his appointment he was WA Director of Public Prosecutions and a Senior Assistant Director at the Commonwealth DPP.

Ms Briggs was CEO of Medicare Australia and served as the Australian Public Service Commissioner for five years. Ms Briggs is leading the Government's review of the Online Safety Act, is a non-executive director of Maritime Super and Goodstart Early Learning, a member of the Aid Governance Board for the Department of Foreign Affairs and Trade, and is chair of the General Insurance Code Governance Committee.

Following more than 5,000 submissions, four national roundtables and consultation with the medical and aged care professions, our Government has today also outlined the terms of reference for the Royal Commission.

The Commissioners will be directed to inquire into all forms of Commonwealth-funded aged care services, wherever they are delivered, without in any way limiting the Royal Commission's scope.

The Royal Commission's Terms of Reference include:

- Quality and safety including the extent of substandard care
- How to best deliver care services to people with disabilities residing in aged care facilities including younger people
- How to best deliver care to the increasing number of Australians living with dementia
- The future challenges and opportunities for delivering accessible, affordable and high quality aged care services, including people's desire to remain living at home as they age, and aged care in rural, regional and remote Australia
- What the Government, the aged care sector, Australian families and the wider community can do to strengthen care services to ensure quality and safety
- How to allow people greater choice, control and independence and how to improve engagement with families and carers
- How to best deliver sustainable aged care services through innovative care and investment in the aged care workforce and infrastructure
- Any matters that the Commissioners believe is relevant to their inquiry

The vast majority of Australia's aged care services and their dedicated staff deliver outstanding care but our responsibility is to ensure there are no exceptions.

As the Royal Commission goes about its critical work, our rigorous policing and reform program will continue at full pace with the new Aged Care Quality and Safety Commission, upgraded Aged Care Quality Standards and record levels of funding support for older Australians.

There will be absolutely no compromise on the safety and quality of aged care.

The Royal Commission will be based in Adelaide and it is proposed it will provide an interim report by 31 October 2019 and its final report by 30 April 2020.

The terms of reference are available [here](#).

Media contacts:

Prime Minister's office:	Press Office, (02) 6277 7700
Health Minister's office:	Lema Samandar, 0427 789 061
Aged Care Minister's office:	Nick Way, 0419 835 449

The Hon. Scott Morrison MP, Sydney



ENTERED ON RECORD by me in Register of Patents No. 53, page 34, on 8th October 2018

Had Case
Secretary to the Federal Executive Council

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth

TO

The Honourable Justice Joseph McGrath, and

Ms Lynelle Jann Briggs AO

GREETING

RECOGNISING the contribution of older Australians to society, and that older Australians deserve high quality care in a safe environment that protects their wellbeing and dignity.

AND the importance of building a national culture of respect for ageing and older persons.

AND that Australia's population is ageing and the proportion and number of people accessing and needing care is increasing.

AND the many positive examples of high quality care within the Australian aged care sector which engages thousands of dedicated people providing aged care services every day, complemented by the important contribution of families and volunteers.

AND that as a community all Australians expect high standards of quality and safety from our aged care services, and it is important that the Australian Government has the best regulatory and policy framework to provide a sustainable aged care system that meets the needs of older Australians in the future.

AND that it is important that frail, older people needing care should receive services that reflect and address their care needs.

AND that the Commonwealth provides funding to, and regulates, providers of aged care services.

AND that some people residing in aged care facilities, including younger people, or otherwise receiving aged care services, have disabilities and

Australia has undertaken relevant international obligations, including to take all appropriate legislative, administrative and other measures for the implementation of the rights of people with disabilities.

NOW THEREFORE We do, by Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into the following matters:

- (a) the quality of aged care services provided to Australians, the extent to which those services meet the needs of the people accessing them, the extent of substandard care being provided, including mistreatment and all forms of abuse, the causes of any systemic failures, and any actions that should be taken in response;
- (b) how best to deliver aged care services to:
 - (i) people with disabilities residing in aged care facilities, including younger people; and
 - (ii) the increasing number of Australians living with dementia, having regard to the importance of dementia care for the future of aged care services;
- (c) the future challenges and opportunities for delivering accessible, affordable and high quality aged care services in Australia, including:
 - (i) in the context of changing demographics and preferences, in particular people's desire to remain living at home as they age; and
 - (ii) in remote, rural and regional Australia;
- (d) what the Australian Government, aged care industry, Australian families and the wider community can do to strengthen the system of aged care services to ensure that the services provided are of high quality and safe;
- (e) how to ensure that aged care services are person-centred, including through allowing people to exercise greater choice, control and independence in relation to their care, and improving engagement with families and carers on care-related matters;
- (f) how best to deliver aged care services in a sustainable way, including through innovative models of care, increased use of technology, and investment in the aged care workforce and capital infrastructure;

- (g) any matter reasonably incidental to a matter referred to in paragraphs (a) to (f) or that you believe is reasonably relevant to the inquiry.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (h) all forms of Commonwealth-funded aged care services, whatever the setting or environment in which those services are delivered;
- (i) all aspects of the quality and safety of aged care services, including but not limited to the following:
 - (i) dignity;
 - (ii) choice and control;
 - (iii) clinical care;
 - (iv) medication management;
 - (v) mental health;
 - (vi) personal care;
 - (vii) nutrition;
 - (viii) positive behaviour supports to reduce or eliminate the use of restrictive practices;
 - (ix) end of life care;
 - (x) systems to ensure that high quality care is delivered, such as governance arrangements and management support systems;
- (j) the critical role of the aged care workforce in delivering high quality, safe, person-centred care, and the need for close partnerships with families, carers and others providing care and support;
- (k) the wide diversity of older Australians and the barriers they face in accessing and receiving high quality aged care services. This should take into account the increasing incidence of chronic and complex conditions;
- (l) the interface with other services accessed by people receiving aged care services, including primary health care services, acute care and

disability services, and relevant regulatory systems. This should take into account how people transition from other care environments or between aged care settings;

- (m) examples of good practice and innovative models in delivering aged care services;
- (n) the findings and recommendations of previous relevant reports and inquiries.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you, as you consider appropriate, to take (or refrain from taking) any action arising out of your consideration:

- (o) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (p) the need to ensure that evidence that may be received by you that identifies particular individuals as having been subject to inappropriate treatment is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;
- (q) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;
- (r) the need to establish, as you see fit and having regard to the date by which you are required to submit your final report, appropriate arrangements for evidence and information to be shared with you by people about their experiences, including people receiving aged care services, their families, carers and others who provide care and

support, recognising that some people will need special support to share their experiences.

AND We appoint you, the Honourable Justice Joseph McGrath, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that, in exercising your powers under Part 2 of the *Royal Commissions Act 1902*, you are to inquire into the matters falling within the scope of paragraphs (a) to (g) only to the extent that Commonwealth constitutional power extends to those subjects of inquiry.

AND We declare that you are a Royal Commission to which item 5 of the table in subsection 355-70(1) in Schedule 1 to the *Taxation Administration Act 1953* applies.

AND We declare that in these Our Letters Patent:

aged care services means services provided by any of the following:

- (a) approved providers within the meaning of the *Aged Care Act 1997*;
- (b) entities to which a grant is payable under Chapter 5 of the *Aged Care Act 1997*;
- (c) entities to which funding is payable under a program relating to aged care specified in Schedule 1AA or 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997*;
- (d) entities that receive funding for the purposes of the Veterans' Home Care Program established under the *Veterans' Entitlements Act 1986*.

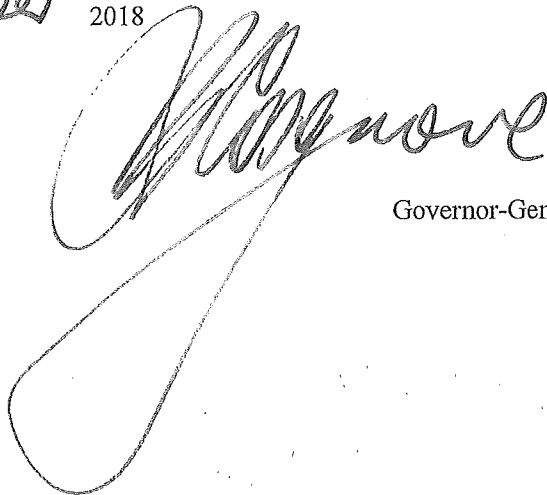
AND We:

- (s) require you to begin your inquiry as soon as practicable; and
- (t) require you to make your inquiry as expeditiously as possible; and
- (u) require you to submit to Our Governor-General an interim report that you consider appropriate not later than 31 October 2019; and
- (v) require you to submit to Our Governor-General a final report of the results of your inquiry, and your recommendations, not later than 30 April 2020.

IN WITNESS, We have caused these Our Letters to be made Patent.

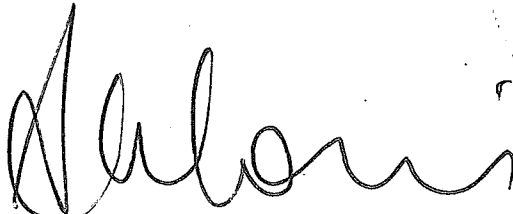
WITNESS General the Honourable Sir Peter Cosgrove AK MC
(Ret'd), Governor-General of the Commonwealth of Australia.

Dated *8th October* 2018

A large, stylized handwritten signature in dark ink, likely belonging to Sir Peter Cosgrove.

Governor-General

By His Excellency's Command

A handwritten signature in dark ink, likely belonging to the Prime Minister of Australia at the time.

Prime Minister

