REVIEW

RETHINK

REBUILD

Aged Care Royal Commission: Final Report

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Contact

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MinterEllison.

Introduction

Reimagining aged care | A new beginning

As the Royal Commission into Aged Care Quality and Safety concludes its work, the sector is faced with a unique opportunity to review, rethink and rebuild.

The aged care sector is undergoing transformational change due to a rapidly ageing population, changing consumer expectations, a dementia epidemic and a preference for care at home. Against this backdrop, the sector is grappling with the most sizeable decline in financial performance in more than five years.

With the spotlight firmly focussed on aged care, addressing the challenges, and more importantly, the opportunities, presented by the Royal Commission is essential to ensuring the sector can meet the needs of ageing Australians into the future.

The Royal Commission's Final Report signals a new beginning. The Royal Commission's Final Report entitled *'Care, Dignity and Respect'* is the culmination of some two and a half years of hearings, more than 10,000 submissions and evidence from over 640 witnesses. The report contains 148 recommendations and sets out a comprehensive reform program, to be rolled out over an ambitious five-year timeline. The reform agenda is bold and framed around new, rights-based legislation and the universal right of access to high quality and safe aged care services.

We have unpacked the key recommendations from the Royal Commission's Final Report, bringing together recommendations across four key themes:

- Governance and prudential regulation
- Quality and safety
- Workforce
- Funding and financing.

In each section, we've utilised MinterEllison's expertise from across the business to help you review and reflect on what the Royal Commission's recommendations mean for your organisation – and what you can do now to start preparing for a reimagined, rebuilt aged care sector.

We're sharing our perspective based on our experience of working with our clients across the aged care sector, as well as taking lessons from other industries that have undergone similar transformational journeys.

The case for change is compelling and the sector now anxiously awaits Government's response to the Final Report – likely to be delivered with the May Budget. While these are unsettling times, it is also a unique opportunity to take stock, to reflect on the lessons learned and to start rebuilding the aged care sector to meet the community's needs and expectations.

We are well placed to partner with you on your transformational journey. Feel free to contact me or any of the other experts in our team to discuss how we can help.

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System architecture and cross cutting themes

'The absence of Government leadership and stewardship of the aged care system has meant that obvious and longstanding problems with aged care have not been dealt with and necessary adjustments to the system have not been introduced.'

Key recommendations

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The bar has been raised for the aged care sector in Australia. The future is about putting the care of older people first. The Final Report outlines urgent priorities around quality and safety and governing bodies need to understand the urgency to address these issues now. Community expectations will continue to increase and providers need to closely examine the recommendations and what they mean for their organisation.

Program design

The Royal Commission has recommended the introduction of a new rights based Aged Care Act that puts older people at the centre of care. The reform agenda is framed around the universal right of older Australians to access high quality, safe and timely support and care; to exercise choice and control; to ensure equity of access and to provide for regular and independent review of the system. The reconfiguring of the system, as one of an entitlement to care, deliberately mirrors the Medicare framework.

The Royal Commission recommends a new aged care program based on need, not rationed. The new program will include a single assessment process, based on a common assessment framework. There will be a greater emphasis on care at home and a comprehensive suite of services will be introduced to support people to live independently for as long as possible.

System governance

The Commissioners diverge on the foundational issue of system governance. Commissioner Briggs proposes a Government Leadership model for the aged care system. She recommends the appointment of a Minister responsible for aged care in Cabinet. The Department of Health should be renamed to include aged care, with the Department taking on the role of system steward. She observes there has been an absence of Government leadership and stewardship of the aged care system over many years and that it is time for Government to *'step-up'* and accept responsibility for driving reform.

In-line with submissions of Counsel Assisting, Commissioner Pagone proposes an Independent Commission model requiring the establishment of a new Australian Aged Care Commission, free from Ministerial interference to act as system governor, administrator and regulator. He asserts that the failure of successive governments to tackle the underlying problems in the aged care system makes independence an imperative.

Whatever the model of system governance, there will be a number of other independent bodies involved in oversight of the new aged care system to provide the necessary *'check and balances'*. An Inspector-General of Aged Care would provide independent oversight and assure system accountability. An independent Pricing Authority would assume a price-setting role, determining the schedule of prices that should be paid for care, based on an analysis of the efficient cost of providing safe and high quality care.

The Australian Commission on Safety and Quality in Health Care is proposed to be renamed to include aged care and will be responsible for the review and setting of quality standards and quality indicators. In addition, it is proposed that the Australian Institute of Health and Welfare develop a national aged care dataset and undertake studies designed to:

- assess the provision, use, cost and effectiveness of aged care services and aged care technologies
- conduct research into aged care services.

Cross cutting themes

'Aged care has been driven structurally over the last 25 years by fiscal parameters rather than important policy foundations (of access and adequacy) … aged care services are strictly rationed and access depends on good luck or good fortune … this is unacceptable.'

There are a number of recommendations by the Commissioners which cut across the existing and proposed services, settings and siloes. These include a fundamental redesign of the aged care program condensing the many existing services into five core services categories, key measures to address the particular needs of Aboriginal and Torres Strait Islander people accessing aged care and provision of regional and remote services, mechanisms to ensure benchmarking data for system analysis and improvement, and the implementation of new primary health care models requiring providers to interface with the health care system. Unlike many of the other themes arising from the Report, the Commissioners are broadly aligned in a number of recommendations spanning services and sustainability (noting that there are small divergences throughout some of the recommendations).

The Commissioners have recommended a number of actions be implemented immediately including:

- clearing the Home Care Package waiting list and increasing the number of home care packages available
- removing young people with disability from residential aged care, and putting necessary implementation measures in place.

A simplified, streamlined aged care program: five core service categories

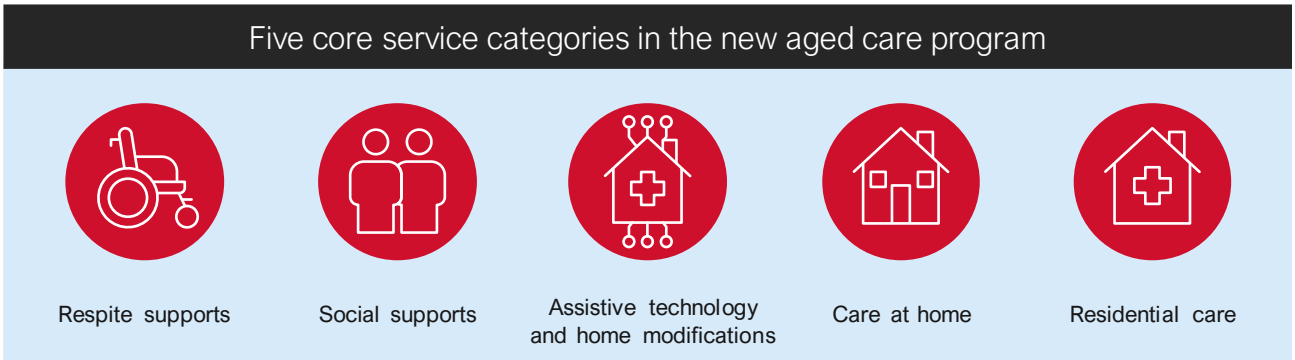
'Older Australians should have an entitlement to care … (they) should be able to rely on the aged care program for support when and where they need it'.

The Commissioners have recommended a new aged care program based on a universal entitlement to aged care. The new aged care program is proposed to retain the benefits of each of the components of the existing service streams, have a common set of eligibility criteria and a single assessment process based on assessed need, and not rationed. It should replace the existing:

- 17 Commonwealth Home Support Programme services
- 11 forms of respite care
- four levels of Home Care Package
- residential aged care.

This is a significant step towards simplifying and streamlining the current, complex system.

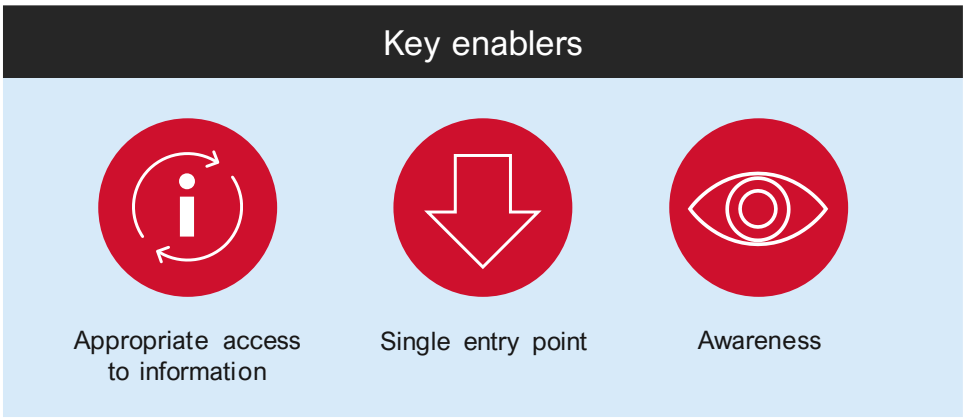
Five core service categories should be established as the new aged care program, including:



Reflective of the Commissioners' strong recommendations for access to and provision of primary health care, the Commissioners recommended that both the care at home and residential care categories include allied health care. However, for residential care, they diverge on the scope of the relationship between providers and allied health practitioners with Commissioner Pagone recommending *'arrangements'* with allied health professionals and Commissioner Briggs preferring allied health professionals to be *'employed or otherwise retained'*.

Seven key outcomes: a person-centric, simplified and inclusive approach

As part of this, individuals should be supported to access the program by way of a single entry point with bespoke assistance where required. The System Governor would fund and implement various initiatives to increase access to appropriate information and awareness of the new aged care program.



The Commissioners also recommend the following to achieve the seven key outcomes.

✓ **Abolish the aged care provision ratio:** it has been the cause of the long waiting lists for home care packages.

✓ **Clear the current waiting list:** clear the Home Care Package waiting list and increase the number of home care packages available.

✓ **Develop and implement a new planning regime**: this will ensure, among other things, adequate coverage of services to meet the population needs for major cities, rural, regional and remote Australia and continuity of services.

✓ **Incentivise small-scale congregate living and dementia-friendly design:** this could follow development of National Aged Care Design Principles and Guidelines on accessible and dementia-friendly design for residential aged care.

✓ **Create *'familiar households'* via the small household model**: this facilitates the provision of person-centred care.

✓ **Provide better support for informal carers:** this could include creation of a community-based carers hub network which will provide access to information, advice and support in the local community. Commissioner Briggs recommends access to unpaid carers leave (as part of the National Employment Standards) and training for aged care volunteers.

Aboriginal and Torres Strait Islander people and rural and remote services

'Aboriginal and Torres Strait Islander people who require aged care should be embraced by an aged care system that shows respect for their cultures and heritage.'

In acknowledging the diverse needs of Aboriginal and Torres Strait Islander people, the Commissioners recommended that the new aged care system should incorporate an Aboriginal and Torres Strait Islander aged care pathway, incorporating the best aspects of the NATSIFAC program in order to deliver culturally safe and flexible aged care in any location.

They also propose the following.

✓ **Appoint an Aboriginal and Torres Strait Islander Aged Care Commissioner:** provide pooled and flexible funding to deliver culturally safe and trauma-informed care.

✓ **Prioritise free access to interpreters via the National Indigenous Interpreting Service:** this is currently being progressed by the Government.

✓ **Develop a national Aboriginal and Torres Strait Islander Aged Care Workforce Plan:** target the training and employment of Aboriginal and Torres Strait Islander people, and support organisations that deliver services to Aboriginal and Torres Strait Islander people to expand into aged care service delivery.

✓ **Provide better planning, costing and funding of aged care in regional and remote Australia.**

✓ **Build flexibility into the system and funding:** the Multi-Purpose Services Program is an example of this flexible approach. It is a joint initiative between the Commonwealth and State/Territory Governments, which provides integrated health and aged care for regional, rural and remote communities, across both home care and residential aged care. The Multi-Purpose Services model should be expanded and improved, in accordance with the needs of the community. In thin rural and remote markets, the System Governor should commission a provider of last resort.

Young people with disability

People living with disability should be provided with daily living supports and outcomes equivalent to those that would be available under the National Disability Insurance Scheme to a person under 65 years of age with the same, or substantially the same, conditions. In line with recommendations made in the Royal Commission's Interim Report, young people with disability should be exited from residential aged care, with implementation measures to action this to be put in place immediately.

Data collection

A key theme throughout many Royal Commission hearings was the absence of an aged care data asset to inform analysis of the aged care sector's performance.

The Commissioners recommend the following.

✓ **Establish a National Aged Care Data Asset:** Australian Institute of Health and Welfare can collect, store and maintain data and create minimum data sets, which must be made publicly available.

✓ **Identify and remove legislative barriers** to the provision of such data.

Better access to health care

Critical to improving the quality and safety is better integration of aged care with the health care sector. A new primary health care model is proposed, with accredited general practices receiving an annual capitated payment for every person enrolled, based on the person's level of assessed need. The Commissioners diverged on timing for implementation however, the Commonwealth strongly supported the need to ensure access to high quality health care for people accessing aged care services.

The Commissioners recommend the following.

✓ **Develop multidisciplinary hospital outreach teams** to deliver more complex health care, including palliative care, within residential aged care. Funding should be by way of the National Health Reform Agreement.

✓ **Introduce multidisciplinary outreach care teams** to be operated by geographically-based Local Hospital Networks responsible for managing the delivery of public hospital services.
The key features include:

- multidisciplinary teams including nurse practitioners and allied health
- access to a core group of relevant specialists including geriatricians, psycho-geriatricians and palliative care specialists
- provision of services in a person's place of residence, where possible
- 24 hours per day on-call services
- Older Persons Mental Health Services
- new Senior Dental Benefits Scheme to fund dental services for people in residential aged care or pensioners living in the community limited to maintaining functional dentition.

✓ **Expand Medicare Benefits Schedule-funded specialist telehealth services** to older people receiving personal care at home.

✓ **Make short term amendments to other Medicare Benefit Schedule items** for attendance by various health practitioners on aged care recipients.

✓ **Amend the Pharmaceutical Benefits Scheme Schedule** so that, among other things, only a psychiatrist or geriatrician can prescribe antipsychotics to aged care recipients in residential aged care, in the first instance.

✓ **Implement and publicly report on compliance with hospital discharge protocols** (that is, discharge to residential aged care from hospital may only take place once a clinical handover and discharge summary has been provided to and acknowledged by the provider and provided to the aged care recipient). This applies to Commonwealth and State/Territory Governments.

✓ **Implement new information and communications technology** to enable information to flow efficiently between all users, including requiring compatibility with My Health Record. This should be implemented by every approved provider.

Key features of multidisciplinary outreach care teams

Multidisciplinary teams including nurse practitioners, allied health

Access to a core group of relevant specialists including geriatricians, psycho-geriatricians and palliative care specialists

Provision of services in a person's place of residence, where possible

24 hours per day on-call services

Older Persons Mental Health Services

New Senior Dental Benefits Scheme

Impacts on aged care organisations

If Government accepts the recommendations around the framing of the new aged care program, it will be a fundamental shift in the existing architecture. It will mean that aged care is seen as a universal health care entitlement rather than an *'add on'* that may, resources and service availability permitting, be accessed by all of the Australian population. The proposed new aged care program underpins the entire Australian aged care system and the way providers will provide, via a single assessment process based on need, each of the five categories. Given the ageing Australian population, this should increase the number of services and opportunities for providers.

For residential care, there will be a renewed focus on the provision of allied health to residents and the provision of primary health care by general practitioners and other medical specialists. Providers will interface with the health care system in order to ensure that aged care recipients are provided with appropriate access to health care as required (including allied health, GP, dental care and specialist health care). There will also be a push towards small-scale, congregate, home-like physical environments rather than the hotel-like environments that the system has moved to in recent years.

For care at home, there will be a significant increase in all levels of home care packages being accessed by Australians, with an immediate need to clear the extensive waiting list. This will be in line with the move to consumers wanting to receive care in their homes, for longer. There will also be a shift in the provision of primary health care to care at home recipients.

There will be significant opportunities for providers to expand the settings in which care is provided to rural and remote locations and with a focus on care for Aboriginal and Torres Strait Islander aged care recipients, in any setting.

Governance and prudential regulation

Navigating the new governance framework

Governance and prudential regulation

'Boards and executives (must) act responsibly and appropriately to lead their services with the interests of older people at heart and be more open and transparent about the quality performance of their services.'

Key recommendations

14 A general duty to provide high quality and safe care
88 Legislative amendments to improve provider governance
89 Leadership responsibilities and accountabilities
90 New governance standard
91 Program of assistance to improve governance arrangements
101-103 Enforcement powers
135, 136 Prudential standards and continuous disclosure requirements

New governance standards and obligations will impact the makeup of aged care sector boards and reporting activities. Boards will face:

- a new regulator
- a new set of regulatory and prudential standards
- new reporting requirements and new enforcement tools
- a significant focus on integrated corporate and clinical governance.

Reconsidering governance and culture

A key theme of the Final Report is the need for providers to *'lift their game … and embrace the concept of accountability'*. Boards and executives must lead their services with the interests of older people at the heart of service delivery. This needs to be done in parallel with a strong uplift in quality, standards and organisational culture.

Successful providers will create a clear connection between profit and purpose. The governing body is not only responsible for setting the tone from the top, it is also responsible for sending it throughout the organisation. The focus of the governing body is to create alignment between the provider's purpose and that of the broader aged care system. The providers who will *'leapfrog'* others will invest time and resources to create a consumer-centric organisation, and will be bold and ambitious in transforming processes, systems, data and risk management to enable the organisation to activate around purpose.

A new governance standard to uplift skills, experience and knowledge

The Royal Commission recommends a range of legislative amendments focussed on improving provider governance. A new governance standard is proposed, which will require providers to ensure the skills mix, experience and knowledge of their board is *'fit for purpose'*.

Governing boards must have a Care Governance Committee, chaired by a non-executive director with the appropriate experience in care delivery. The purpose of the Care Governance Committee is to establish, monitor and report on the safety and quality of care delivered by the provider. It will have active oversight over key risks and quality indicators, with a focus on the root cause to understand key themes and systemic issues and to remediate in a timely manner. Regular feedback from care recipients, their representatives and staff will be important to obtain their views on the quality and safety of services delivered. The governing body should ensure it receives regular reports about complaints, an analysis of patterns and the underlying reasons for complaints – so enhancing the complaints systems could be valuable.

The new governance standard will require greater transparency of information and increased reporting obligations. Providers will develop an annual attestation process and a member of the governing body (usually the Chair) will need to attest annually that they are satisfied there is an effective risk management system in place and a process to deliver effective, safe and high quality care.

Other industries have been required to prepare annual attestations for a number of years and there is a broad range of practices from a simple 'tick the box' exercise, to seeing it as a value-add process.

To align with the new prudential reporting requirements, organisations will need to:

- comply with continuous disclosure requirements and conflicts management
- implement a whistleblowing policy
- review to update continuous disclosure practices.

To address issues in acceptable timeframes, governing bodies need to be equipped with the right information. Enhanced transparency in the industry with sharing of data and benchmarking will accelerate the need to invest in systems, risk management frameworks and processes to capture data and to enable timely decision making.

However, defining accountability and using it when things go wrong, will enable your organisation to have a conversation so it can continue to learn and grow.

Sufficiently strong corporate and clinical governance and culture will elevate the integrity and sustainability of the whole system. Providers need to map the recommendations, undertake a gap analysis and develop a road map, aligned to the organisation's core purpose and culture aspirations.

Listen to the voice of the older Australians

A provider's *'social licence to operate'* carries with it rights, privileges, duties and responsibilities. The social licence carries expectations of appropriate relationships with a range of stakeholders such as the person receiving the care, their family, staff and the wider community. It recognises that the provider is a social organisation dependent on these shared understandings, not merely a legal and economic entity seeking to behave rationally and perfunctorily under its contracts.

Your governing body will be considering forums and mechanisms to bring the *voice of the consumer* into all levels of the organisation and to ensure they are heard. Providers need to consider whether the forums that currently exist to test for person-centred care perspectives and impacts are 'fit for purpose' and, if there are innovative approaches to embed the voice of the consumer at all levels of the organisation.

Providers can leverage off the experiences from other sectors, which includes consumer listening forums, consumer committees and consumer advocate roles that allows management and the governing body to hear from a diverse range of resident experiences and to ensure the direction the organisation is taking is appropriate and relevant to the resident needs.

Moving beyond the point of crisis

The Final Report, along with the COVID-19 pandemic, has highlighted deficiencies in the effectiveness of governance systems across the sector. To achieve the task ahead, the sector needs robust governance arrangements. Moving forward, governing bodies have an opportunity to ensure they are equipped with the right information to effectively challenge management and be prepared to do so. Reporting should include a focus on outcomes for those being cared for by the provider. Metrics need to be further defined and additional data sources accessed to provide a holistic picture across the organisation and to drive continuous improvement. Complaints and other feedback mechanisms should also be revisited and fed into board reporting, with a view to greater openness, transparency and accountability. Reporting may also be required on a more *'real time'* basis, driving discussion about underlying technology and data improvements.

Key questions to consider

> Has your organisation conducted a Governance, Culture and Accountability Health Check?
> Is your governance framework updated to include board structure and composition, delegations and other policy frameworks?
> Is your 'fit and proper person' policy and process updated?
> Has your organisation recently conducted a risk culture assessment to ensure it is aligned with organisational culture?
> Has your organisation conducted an enterprise-wide review of resources capability including skills matrix and accreditation register?
> Is your Board and Care Governance Committee reporting for purpose and providing the right information at the right time?

Preparing for a new regulator

The Final Report recommends significant changes to system governance, with the Commissioners diverging on the model to be adopted. Regardless, both Commissioners agree on the need for fundamental change with either the establishment of an independent Australian Aged Care Commission or an enhanced role for the Department of Health, to include aged care.

Getting ready for the new regime

Organisations need to review governance structures to ensure governing bodies are designed appropriately and are operating effectively. There is a risk that governing bodies will be inundated with more reports, so providers need reporting that is succinct, insightful and *'connects the dots'* – that is, it shows the interaction between complaints, clinical and non-clinical incidents, and systemic issues. Individuals should be assigned accountability to the resolution of issues being escalated to the governing bodies. Governing bodies should be aware of significant issues and be prepared, if necessary, to intervene and say *'fix it now'* where management fails to act in accordance with the long term best interests of the organisation, or if major issues have not been resolved in acceptable timeframes.

While it is not yet clear exactly what that system will look like, providers should take some of the following steps in readiness:

- **become familiar with the proposed new aged care program** and understand what it means for your organisation
- **design your program for implementation and ongoing compliance** with the new requirements, mindful that it is more than just a compliance exercise
- **document the organisation's expectations**, accountabilities and reporting requirements
- **undertake a governance, risk and culture self-assessment** to identify strengths and weakness across the organisation and to inform the organisation's approach
- **revisit the organisation's risk** profile having regard to governance, compliance, regulatory and clinical risks
- **conduct a gap analysis of existing systems and frameworks** against new expectations and requirements, including in relation to internal policies, resourcing and complaints-handling.

A new non-delegable duty of care

The Royal Commission proposes the formulation of a measurable definition of high quality care. Care must be diligent and skilful, safe and compassionate and must meet the needs and aspirations of those receiving care. The new Aged Care Act will include a positive, non-delegable duty to provide high quality, safe care. Breach of the general duty will sound in civil penalties, including accessorial liability for key personnel.

The new Act proposes an entitlement to a right of private action by or on behalf of the person receiving care in the event of a breach. However, the Commonwealth has already indicated they are unlikely to support a right of private action, as this goes beyond the rights available in other contexts (like health, for example) and there is no evidence the right would add real value for care recipients. The Commonwealth agrees that whilst empowering the regulator to seek penalties in cases of serious breach may be a useful enforcement tool, a private right of action is *'particularly problematic'* and may have unintended consequences.

Approved providers will be required to comply with continuous disclosure obligations. This means they will need to inform the Prudential Regulator of material information that affects their ability to pay their debts or affects the ability of the provider (or any contractor providing services on its behalf) to continue to provide safe, high quality aged care.

Key questions to consider

> Is your compliance program and framework fit for purpose and able to be updated with the new requirements?
> Have you reviewed internal policies and updated them to reflect all new and minimum standards along with implementation of the standards through a regulatory compliance and change management strategy?
> Should you complete a risk assessment to review and refresh key risks including governance, compliance, clinical risks?

Stronger complaints and incident management

The report recommends a new and expanded serious incident reporting regime which includes care at home, to ensure that all serious incidents are reported, regardless of any cognitive or mental impairment of the alleged perpetrator. The information will be made publicly available, with the regulator publishing quarterly incident reports. This means the breach reporting regime will now require that serious incidents be logged and monitored, managed and resolved. The reporting scheme will include names of individuals accused as well as their incident history.

Improved complaints management

By fostering a culture that welcomes feedback, sees value in complaints and addresses the consequences of substandard care to rebuild trust and to continuously improve, providers will have a much greater chance of delivering on their promises. People making a complaint must feel confident that the complaint will be used *'for the right purposes'* and not penalise them, or their family members.

Providers can demonstrate they welcome feedback by having a process that is simple to use, transparent to all parties and provides timely resolution to issues. How a provider responds to a complaint is crucial to enduring trust and resolving issues. Developing complaints management principles will help staff understand the approach to be taken. Complaints data is a rich source of insight into an organisation. Providers should explore how it can leverage the information to improve practices and the quality of care.

Key questions to consider

- Have you reviewed current incident and breach management process, policy, procedures and training under a gap analysis to determine next steps to comply with new requirements?
- Are your reporting requirements, processes and systems updated to include identification, systemic and trend analysis, monitoring and closure?
- Has your organisation conducted assurance and consequence management reviews?
- Do your governance structures ensure significant incidents and breaches are escalated as appropriate?
- Are incident and breach managements aligned with the management of complaints?

Quality and safety

Delivering safe, high quality aged care services

New quality and safety standards

'The Final Report is about the fundamental reform to the aged care system to make sure it delivers the quality of aged care we expect as a nation'.

Key recommendations

13 Embedding high quality aged care
14 A general duty to provide high quality and safe care
15 Establishment of a dementia support pathway
16 Specialist dementia care services
17 Regulation of restraints
18 - 21 Review of the Aged Care Quality Standards
22 - 23 Quality indicators
24 Star rating system

The delivery of safe, high quality aged care services is the centrepiece of the Royal Commission's work. All of the recommendations made are focussed on the central theme of improving aged care quality and safety. This starts with the formulation of a measurable definition of high quality care and the imposition of a general, non-delegable duty to provide safe, high quality care.

High quality aged care

The Royal Commission observes that *'high quality care must be the foundation of aged care'.* To achieve this, the sector (approved providers, government and older people, their friends, family and advocates) must develop a universal and shared understanding of what *'high quality aged care'* means. High quality care results from diligent, skilful, safe, compassionate and timely service provision.

Defining high quality care

The Royal Commission proposes a broad definition of *'high quality care'* observing it must be designed to meet the particular needs and aspirations of the care recipient. High quality care must:

- be delivered with compassion and respect for the individuality and dignity of the care recipient
- be personal and designed to respond to the person's expressed needs, aspirations and preferences for care delivery
- be provided on the basis of a clinical assessment and regular clinical review of the care recipient's health and wellbeing
- enhance the physical and cognitive capacities and mental health of the care recipient
- support the care recipient to participate in recreational activity, social activities and engagement.

Quality and safety cannot be considered in isolation: each relies on linkages between recommendations relating to quality of care, workforce requirements, and financing and funding of care.

The Royal Commission asserts that safe and high quality aged care begins with the care recipient's quality of life and should be focused on enabling the older person to be supported to enjoy life to the greatest extent possible. Key to this, is social connection. For too long, aged care has been *'hidden and out of sight to the rest of the community'*. The Royal Commission proposes that older people receiving care at home should be empowered to maintain connections with their local communities and that residential aged care needs to be more like a home, where family and friends can *'pop in'* to maintain social connection.

A statutory duty to provide high quality care

The Royal Commission proposes that the new Act should include a general, positive and non-delegable statutory duty on approved providers to ensure that personal and nursing care provided is of a high quality and safe, as far as is reasonably practicable. This models the duty owed by providers under work, health and safety legislation to employees and contractors.

The Royal Commission also propose a more restricted statutory duty on *'any entity'* that facilitates the provision of aged care services, whether funded in whole or in part, to ensure that any worker it makes available to provide personal care services has the necessary experience, qualifications, skills and training to carry out the work they are being asked to provide. This duty is designed to apply to labour-hire businesses and perhaps extends to private aged care providers.

Key questions to consider

- Are your organisation's clinical governance frameworks sufficiently robust to ensure that the care being delivered is safe and of a high quality?
- Are your organisation's complaints policies *'fit for purpose'* and does the organisation undertake adequate trend analysis and reporting?
- Is there adequate reporting up to the governing body on key quality and safety issues?
- Are your organisation's brokerage and labour hire agreements adequate to contemplate the new expansive duty?

Areas for immediate improvement

The Royal Commission has identified four areas for immediate action – nutrition, dementia care, restrictive practices and palliative care.

Food and nutrition

An immediate, conditional increase of the Basic Daily Fee of $10 per resident per day is recommended, which must be spent on daily living needs, especially nutrition. The Royal Commission proposes that as part of the review of the quality standards that any future standard relating to food and nutrition should be more prescriptive, as the current standard *'leaves much to the discretion of the provider and it is not easily enforceable'*.

Caring for people living with dementia

The Royal Commission observes that the quality of care provided to people with dementia was *'often abysmal'*, particularly for those with complicated needs, where staff do not have the skills or time to deliver the care needed, and often need to rely on restrictive practices. Mandatory dementia training is recommended in residential aged care and in care at home. The Royal Commission recommends a comprehensive, clear and accessible dementia care pathway should be established by 1 January 2023, similar to Scotland's National Dementia Strategy. To enable the development of the dementia support pathway, the Royal Commission recommends that the government review and publicly report on suitability, capacity and effectiveness of specialist dementia care services to meet
the needs of people in Australia living with dementia.

Eliminating or reducing restrictive practices

The Royal Commission recommends that by 1 January 2022, the *Quality of Care Principles 2014* (Cth) be amended to include provisions similar to those that exist in the disability sector, requiring restrictive practices to be prohibited unless recommended by an independent expert and subject to a behaviour support plan. Restrictive practices must only be used in specific circumstances as a last resort, or in an emergency to avert the risk of immediate physical harm.

Importantly, it is recommended that any unauthorised use of restrictive practices should be subject to a report under the updated serious incident reporting scheme. A breach of the statutory reporting requirements will result in liability to a civil penalty, with the regulator empowered to seek an order for compensation from the provider.

In addressing restrictive practices, the Royal Commission acknowledges the inconsistent approaches to the regulation of restrictive practices in Australia, due to the varied guardianship legislation between the States and Territories. The Royal Commission supports harmonisation of the laws that regulate restrictive practices in Australia, particularly between the disability sector and the aged care sector.

Palliative care

Compassionate, respectful and individualised support for care recipients approaching the end of their life is acknowledged by the Royal Commission to be an essential aspect of aged care services. As with dementia care, the need for these services is only likely to increase as the population in Australia ages.

'Palliative care cannot, and should not, be considered an optional extra within the aged care system. It needs to be an integral part of any aged care service.'

Overcoming the reluctance to discuss death with older people and their families is a necessary step towards improving palliative care. To improve palliative care, the Royal Commission states that better training will be required to enable the aged care workforce to support appropriate palliative care and identify when specialist input is required.

Aged Care Quality Standards

The Royal Commission acknowledges that Quality Standards are a *'powerful tool'* for maintaining and improving quality of care across the sector. The current Aged Care Quality Standards do not define *'quality or high quality'* and, by their nature, set out minimum acceptable standards for accreditation.

The Royal Commission asserts there must be greater harmonisation with the quality standards in the healthcare sector. The Australian Commission on Safety and Quality in Health Care should be renamed to include aged care and should be tasked with an immediate review of the Aged Care Quality Standards. The Commission should also take carriage of setting quality indicators.

Measuring Aged Care Quality

The current aged care framework lacks fundamental transparency and accountability. The Royal Commission recognises the link between the inability of prospective care recipients entering the aged care system (and their families) to access information about the quality and performance of providers, and the presence of quality and safety issues in the aged care system. It is from this premise that the Commissioners have recommended a series of reforms that will make the aged care system transparent, open and accountable.

The first step in achieving this goal is facilitating greater data collection about the preferences of older people and their experiences in aged care. The Royal Commission proposes the removal of the existing '*secrecy provisions*' that limit the access to information regarding the performance of aged care providers, along with the mandatory publication of information about the governance and capabilities of services providers.

The Royal Commissioners have recommended the Government develop and publish a system of star ratings based on measurable indicators to be published on *My Aged Care,* which will include information relating to staffing levels and performance against clinical and quality indicators.

Expansion and further development of the current clinical indicators is also recommended. While still a relatively new addition to the aged care system, the Royal Commission recommends that clinical indicators be developed for home care and that the existing clinical indicators be expanded for residential aged care to include falls, fractures, medication management and weight loss. A comprehensive *'quality of life assessment tool'* for people receiving aged care in residential care and at home should also be developed. As an immediate measure, the Royal Commission recommends that the National Mandatory Indicator Program be expanded to use more comprehensive indicators for pressure injuries, physical restraint and unplanned weight loss.

Clinical indicators will also play a greater role in benchmarking provider performance. With the recommendation that from 1 July 2022, the aged care regulator should develop a methodology to benchmark provider governance against similar providers, set progressive improvement targets with a view to raising provider performance overtime, and publicly report on these metrics. These measures are clearly aimed at remedying the opaque and impenetrable aged care system that currently exists.

Better connection to the health care system

There must be improved transition between residential aged care and hospital care, including public reporting on compliance. Data on the interaction between the health and aged care systems must be improved and by 1 July 2022 providers must adopt a digital care management system that is interoperable with My Health Record and meets a standard set by the Australian Digital Health Agency.

A new primary care model must be developed, with accredited general practices receiving an annual capitated payment for every person enrolled, based on the person's level of assessed need. Multidisciplinary outreach services should be introduced and operated by geographically-based Local Hospital Networks, responsible for managing the delivery of public hospital services. This will include:

- provision of services within the person's primary place of residence
- access to multidisciplinary teams
- embedded escalation to specialists
- 24-hour a day on-call services.

There will be increased access to the Older Persons Mental Health Service and establishment of a Senior Dental Benefits Scheme.

In terms of funding, there will be short-term changes to the Medical Benefits Schedule to improve access to medical and allied health services, enhanced access to telehealth services, greater access to medication management reviews and increased funding to enhance the Rural Health Outreach Fund. By 1 July 2022, the National Health Reform Agreement must be amended to include explicit commitments by State and Territory Governments to provide access to people receiving State-funded health services, including palliative care.

Like many of the recommendations in the Final Report, the recommendations that go to enhancing the quality and safety of aged care services are interrelated and present a *'comprehensive plan for reform'*. They cannot be cherry picked but rather, must be implemented holistically.

Whilst Government has a critical role to play in formulating the road map, the aged care sector must remain focussed and maintain *'eternal vigilance'* in the transformation journey ahead.

Workforce

Managing new workforce needs

Workforce

'It is necessary to start with aged care providers and their workforce and with health professionals, because they are responsible for care delivery.'

Key recommendations

75 Aged care workforce planning
77 National registration scheme
78 - 81 Education and training for aged care workers
84 Increases in award wages
86 Minimum staff time standard for residential care
99 Protection of whistle-blowers
122 Reporting of staffing hours

A highly skilled, well rewarded and valued workforce is vital to the success of any further aged care system. The aged care workforce has been under pressure for some time – attracting, retaining and inspiring care staff has been a long-standing issue. Historically, aged care has not seen itself as a clinical care offering. However, the increasing need for more complex clinical care has meant there is a need to revisit training, staffing and remuneration. The Royal Commission's recommendations reflect changing community expectations as to a level of training, experience and remuneration within the sector so that it can properly meet the needs of aged care residents.

Strategic leadership and workforce planning

The Royal Commission observed an urgent need for strategic workforce planning to meet the medium and longer term demand for a skilled workforce.

Commissioner Briggs observed that *'providers have not focussed sufficiently on the provision of high quality and safe care … on service innovation and excellence, on workforce leadership, development, skills and culture'*. The Royal Commission recommends the establishment of an Aged Care Workforce Planning Division within the System Governor (in whatever form that might take). The Division should be responsible for developing workforce strategies to ensure an appropriate distribution of health professionals and care workers to meet the needs of the aged care sector, particularly in regional, rural and remote Australia. They should also have access to an Aged Care Workforce Fund to support training, clinical placements, scholarships and other incentives to respond to workforce challenges.

New workforce standards

The aged care workforce must be *'professionalised'*. There must be structured career paths and consistent occupational groups, job pathways, training and development programs and leadership training which support the various occupational groupings. The Royal Commission has called for a national registration scheme for personal carers to improve the quality of the personal care workforce. The introduction of a mandatory registration scheme is also likely to be accompanied by the adoption of a Code of Conduct with which registrants will be required to comply.

However, the more comprehensive recommendation made by Commissioner Briggs, that this national registration scheme be introduced within the structure of the Health Practitioner Regulation National Law, is unlikely to be implemented. The expansion of the National Law to include personal carers was opposed by the Commonwealth as being overly complex and unjustified when it did not apply to other health professionals like social work, speech pathology and exercise physiology.

Impacts on aged care organisations

The Royal Commission's recommendations are certain to lead to some change, and the institution of minimum qualification requirements (mandating at least a Certificate III, with transitional arrangements in place for existing employees).

We expect that to comply with any new qualification scheme, organisations will need to provide, or at least actively facilitate, the type of specialist dementia and palliative care training the Royal Commission has recommended.

The same applies to ongoing professional training and development which must be implemented as part of maintaining and periodically upgrading the skills of personal carers and other aged care health professionals.

Minimum staffing requirements

The Royal Commission has recommended the progressive introduction of a minimum staff time standard in residential aged care. Initially set at 200 minutes per resident per day across registered nurses, enrolled nurses and personal care workers with at least 40 of those minutes being provided by registered nurses. In addition, registered nurses would, under the Royal Commission's recommendations, be required to staff at least 16 hours at each facility, with an increase to 24 hour coverage by 1 July 2024. Those recommendations were complemented by proposed changes to the *Accountability Principles 2014* (Cth) requiring the reporting of the total number of hours worked in a facility, and the skills mix of the employees who worked those hours.

Whilst the Commonwealth is broadly supportive of operators being held accountable for providing adequate staff time per resident, it is not in support of a single, system-wide standard, given the wide skills variability among providers. The Commonwealth has, however, indicated it supports the requirement for a registered nurse to be on duty at all times in residential aged care.

Impacts on aged care organisations

The introduction of minimum staffing levels will have profound cost consequences across the aged care sector. Providers now need to model (to the extent possible) how the adoption of the recommended staffing levels would practically impact their facilities' head counts (setting aside for the moment the likely increases in pay rates that will flow from award minimum changes).

In addition, providers should immediately consider what steps they can take to track their staff hours and the skills mix deployed at each of their facilities.

Key questions to consider

- How will the minimum staffing level change how you deploy staff?
- What are the likely impacts on how you roster?
- How can you easily track who works where and for how long?

Increased pay rates almost a certainty

The Royal Commission accepted Counsel Assisting's admonition that *'unless aged care workers have a legal right to be paid more, they won't be'.* Currently the minimum award rate under the Aged Care Award is 8.2% higher than the national minimum wage. The minimum relativities as against the national minimum wage are 10.7% and 11.1% for the Social, Community, Home Care and Disability Services Industry Award and the Nurses Award respectively. Those relativities will necessarily be increased, which will have a flow on effect on rates that apply to all other classifications in those awards.

Impacts on aged care organisations

Whether any wage increases are pursued either as a variation to the awards, or through equal remuneration orders is largely academic (the Health Services Union filed an equal remuneration order application in late 2020, which might be a convenient vehicle for the consideration of award increases). However, it is clear that award increases will have the following significant impacts:

- any pay rates in existing enterprise agreements that end up being lower than the increased award rates will automatically be raised to match any new award rates (so organisations ought not rely blindly on the rates of pay in their existing enterprise agreements)
- the new award rates will also set the classifications floors for negotiations for any new enterprise agreements. As a minimum, unions will likely demand that any negotiated increases take account of inflation *and* increases in award minima that might come from the processes recommended by the Royal Commission.

Key questions to consider

> How will possible award increases impact the minimum rates provided in your organisation's enterprise agreement/s?
> Is there any benefit in starting enterprise agreement negotiations now? Or should they be held off?
> Are the remuneration, rostering and other Award issues that are going to have the most impact on your organisation well understood by those lobbying to influence the regulatory change?

Whistleblower protections

Impacts on aged care organisations

In late 2019, the Commonwealth introduced strengthened whistleblower protections to the *Corporations Act 2001* (Cth). Those protections are predominantly aimed at dealing with financial impropriety, though they technically have a much broader scope (by protecting disclosures about misconduct or any improper state of affairs). However, the category of eligible whistleblowers is confined and can include members of the public only in very limited circumstances. We expect that the provisions in the *Corporations Act* will form a model for the sort of broad whistleblower protections recommended by the Royal Commission.

Key questions to consider

> Is your organisation already required to have a whistleblower policy under the Corporations Act?
> What processes and procedures do you have in place for identifying and acting on disclosures?

Immigration and workforce planning

The Royal Commission has recognised that immigration is a small but important part of the Commonwealth's toolkit to address Australia's aged care workforce supply needs.

Currently, Australian visa pathways for aged care workers are limited. The Royal Commission noted the need for a more targeted and strategic approach to the use of Australia's skilled migration program to support the aged care sector. Already the Government has indicated willingness to act on this recommendation. The Prime Minister in his keynote address to open The Australian Financial Review Business Summit indicated that, once migration resumes, visa pathways will be adjusted to meet areas of demand such as aged care.

Impacts on aged care organisations

Changes to the skilled migration program, including new visa pathways for aged care workers, are likely to be announced. Possible changes include:

- the inclusion of occupations such as *'aged or disabled carer'*, *'nursing support worker'* and *'personal care assistant'* on the skilled occupation lists
- the introduction of an aged care industry specific Labour Agreement with fixed terms and conditions
- the creation of specific training and development visa pathways.

Key questions to consider

> What are your resourcing needs in the mid to long term, and what percentage of the new workers required will have to come through the skilled migration program?

> Is your organisation maximising its use of Australia's current migration program through visa pathways such as Labour Agreements and the Global Talent visa program?

Engaging with your workforce now

Impacts on aged care organisations

The changes that will have to happen as a result of the Royal Commission's recommendations will be challenging for many. Critical to the success of transformation is bringing employees along on the journey. It is therefore important that organisations are mindful of their consultation obligations under relevant modern awards, enterprise agreements (if applicable) as well as under State and Territory work, health and safety legislation.

Consultation shouldn't be a *'box ticking'* exercise, but be recognised as a source of substantive obligations (and opportunities). Communicating early will assist providers to manage the risk of attrition and/or workforce disengagement, and assist staff to identify with providers' commitment to improvement.

Funding and financing

Taking an innovative approach to funding

Funding and financing the aged care transformation

'Government has failed to fund the aged care system at a sufficient level to provide uniformly consistent, high quality and safe care. It has done this through savings measures, limitations on indexation and the rationing of services.'

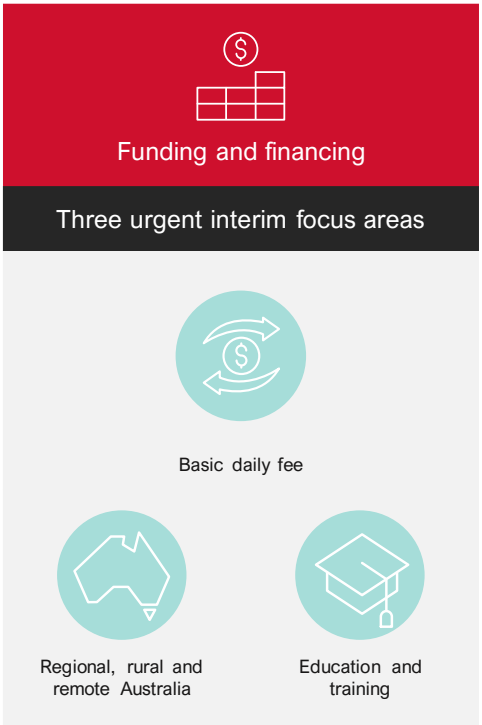
Key recommendations

32 - 34 Respite, social supports and assistive technology
110 Amendments to residential aged care indexation
112 Immediate changes to the Basic Daily Fee
113 Amendments to the Viability Supplement
118, 119 Funding for care at home
120 Casemix-adjusted activity based funding in residential aged care
125 Abolition of contributions for certain services
127, 128 Fees for residential aged care
140 Fees for residential aged care accommodation
141 Changes to the means test
142 Phasing out of Refundable Accommodation Deposits
144 Introduce a new earmarked aged care improvement levy

To support the significant reforms proposed by the Royal Commission, substantial funding changes are recommended. The changes proposed are broad sweeping and in many cases revolutionary. Although funding of the sector is one area where the Commissioners diverge, there is nevertheless a mutual recognition of the need to '*… fund the system at a level sufficient to provide high quality and safe aged care*'.

Funding priorities

Government has failed to fund the aged care system at a level sufficient to provide uniformly consistent high quality and safe aged care. The Royal Commission has proposed a range of immediate and short term measures to be adopted by Government. These include adjustments to the indexation arrangements for both residential aged care and home care so that care subsidies and the viability supplement increase on 1 July each year in-line with increases in the minimum wage and the consumer price index. This change is proposed to come into effect on 1 July 2021 and is aimed at remediating the funding shortfall that many providers have experienced since the Government's freeze on ACFI indexation in FY18.



An immediate, conditional increase in the Basic Daily Fee of $10 per resident per day has been proposed to be introduced by no later than 1 July 2021. This additional funding must be used to meet the basic living needs of residents, in particular nutritional needs, and the provider must conduct an *'annual review'* of the adequacy of the goods and services it has provided throughout the preceding 12 months. The provider must attest that the annual review has occurred by 31 December of each year and in the event the provider has not complied they will be required to repay the additional funds to the Commonwealth.

The Commissioners recommend that the 30% increase in the Viability Supplement that commenced in March 2020 continue until such time as the Pricing Authority has determined new arrangements to cover the increased costs of service delivery in regional, rural and remote areas and has commenced independent determination of prices. They also recommend immediate funding for education and training to improve the quality of the aged care workforce.

New aged care service categories and improved access to health care

The new aged care system includes five service categories, designed to work in a complementary way to meet an older person's needs. The new respite support category will be grant funded with a potential capital component in areas where supply is considered inadequate. Similarly, the Commissioners recommend new social supports, assistive technology and home modifications categories, all of which are to be grant funded.

Recognising the need for greater integration of allied health care providers into aged care services, the Royal Commission recommends funding for the engagement of allied health care providers through a blended funding model. This will include a capped base payment per resident and an activity based payment for each item of direct care provided. There are also a range of measures aimed at improving access to health care. The Commissioners propose a new primary care model, along with funding to improve access to specialists through Local Hospital Network-led multidisciplinary outreach services and the Older Persons Mental Health Service. These services will be funded through amendment of the National Health Reform Agreement to ensure access based on clinical need.

Short-term changes are proposed to the Medicare Benefits Schedule to provide benefits for comprehensive health assessments when a person starts receiving aged care services. Expanding access to Medicare Benefits Schedule-funded telehealth services and the establishment of a new Senior Dental Benefits Scheme aimed at funding dental services for people who live in residential care are also significant funding initiatives recommended by the Royal Commission.

To assist in changing the built environment of existing and new residential care, funding initiatives supporting the building or upgrade of existing facilities to provide small-scale congregate living that facilitates a *'small household model of care'* has been recommended. Grant funding will be prioritised for those providers who have a majority of aged care residents who are low-means care recipients, have special needs, or live in an area where there is a demonstrated need for additional residential care services. Funding will also be made available for construction of residential care homes that comply with new National Aged Care Design Principles and Guidelines, whether by accommodation supplements or capital grants.

As a part of the Royal Commission's recommendation to extend the Multi-Purpose Services Program in collaboration with the State and Territory governments, a cost-sharing capital grants program is proposed to rebuild or refurbish older Multi-Purpose Services to ensure that the infrastructure meets contemporary aged care design standards, particularly for those people living with dementia.

Home care funding

The Commissioners propose significant changes to the way in which home care packages are funded. Subsidies for home care will be paid through a new funding model that takes the form of an individualised budget or casemix classification. This funding model will provide an entitlement to care based on assessed need across a number of domains including care management, living supports, clinical and palliative care. This new funding model should be developed in conjunction with the new *'care at home category'* .

By 1 July 2022, the Royal Commission has recommended that home care funding be provided in accordance with the person's assessed needs. Home care funding should only be capped by reference to the amount of funding that the person would be eligible to receive if they were assessed for residential aged care.

Finally, consistent with the recent changes announced by the Department of Health earlier this year, payment of home care services should occur on an accrual basis. The substance of this recommendation is largely in the process of being implemented by the Department, with amendments to the home care payments coming into effect on 1 February 2021. The second phase of the announced changes for home care payments will require the passage of legislation, but is expected to include payments for actual services provided, with the Government holding any unspent Commonwealth funds.

Residential aged care

Aged care providers should be properly funded for the cost of delivering residential aged care through a casemix classification system, such as through the Australian National Aged Care Classification (ANACC) model, which is currently undergoing a preparatory *'shadow assessment'* process. The move away from ACFI in favour of a casemix-adjusted activity based funding model is seen as essential to implement a high quality aged care system.

The Royal Commission has recommended that the payment of fees for both respite and residential aged care be reformed. Under this recommendation, care recipients would only be required to contribute to the costs of the services that they receive associated with ordinary costs of living up to a maximum of 85% of the single basic age pension (in addition to any additional services). Care recipients should be required to contribute to the costs of the goods and services they receive to meet their ordinary living needs, with the newly established Pricing Authority determining the maximum amount payable for residents' ordinary costs of living.

In the case of either respite care or residential home care, the Royal Commission has recommended that the new Aged Care Act contain provisions that do not bar prospective care recipients from receiving high quality respite or residential aged care due to an inability to pay. Commissioner Pagone has recommended several carveouts for residents who have means to pay higher accommodation amounts, subject to an upper limit set by the Pricing Authority.

The Commissioners diverge on the ongoing role of Refundable Accommodation Deposits (RADs) with Commissioner Briggs proposing the phasing out of RADs by 2025. However, providers will be able to continue charging residents who are ineligible for the Accommodation Supplement, a RAD or equivalent Daily Accommodation Payment (DAP) up to the Provisional Accommodation Charge Limit. The Commissioners also differed with respect to the formulation of the relevant means testing to apply in determining a resident's eligibility for subsidies under the aged care framework.

Reablement approach

Funding incentives for providers to invest in providing restorative care, reablement and reforms to the assessment process, to ensure providers retain the previous level of funding if a resident becomes healthier or less dependent, have been recommended. Improvement in a resident's condition under the care of a provider will not require reassessment for funding eligibility. It is also proposed that providers will now be paid retrospectively from the date when a reassessment was requested where it is determined on a reassessment that a care recipient is entitled to a higher level of funding, and the provider can demonstrate that it has been providing that level of care to the care recipient.

Capital financing and the future of RADs

The Royal Commission recommend the phasing out of RADs by 2025, currently a $30.2B liability across the sector. The Commissioners observe that RADs are not a particularly reliable source of capital – with an event like COVID-19 demonstrating that falling occupancy rates generate capital shortfalls for providers due to increased RAD outflows. Commissioner Briggs recommends that RADs be phased out by 1 July 2025. Commissioner Pagone has instead argued for prioritising other reforms in the sequence of recommendations put forth by the Royal Commission.

In submissions to the Royal Commission, many providers stated the sector would suffer from a paucity of capital in the event that RADs were phased out. Some submissions warned that if RADs were phased out this would be disruptive to the aged care sector leading to the real likelihood of some providers collapsing, given alternative sources of capital are more expensive to procure. To avoid such risks, the Royal Commission has proposed a transitional mechanism to support provider liquidity and viability while the sector transitions away from RADs. The Royal Commission has supported a proposal from the Grattan Institute to provide concessional loans to providers in transitioning away from RADs.

Post RAD transition, the Royal Commissioners differ on a permanent solution – with Commissioner Briggs recommending that the Government should establish an ongoing aged care accommodation capital facility to support the construction of new, and to update existing, residential aged care services. In contrast, Commissioner Pagone considers that there is a case for the Government to provide loan guarantees during a transition period only.

Perhaps the most significant difference between the Commissioners relates to the funding measures needed to raise the significant funds to adequately fund a quality aged care system. Commissioner Briggs has recommended the introduction of a new earmarked aged care improvement levy at a flat rate of 1% of taxable personal income. The funds would be levied for the financial year commencing 1 July 2023, and for all subsequent financial years until the Parliament otherwise provides. Commissioner Briggs did not propose that this levy be hypothecated. In contrast, Commissioner Pagone has recommended that the Productivity Commission should inquire and report on the potential benefits and risks of a hypothecated levy through the taxation system. It is important to note that Commissioner Pagone has not recommended the introduction of such a hypothecated levy – only that the Productivity Commission consider this proposal.

Impacts on aged care organisations

If the recommendations are adopted by Government, an increase in funding will invariably be required. Structural changes to the pricing of aged care through the implementation of a Pricing Authority will promote transparent and reliable pricing in the sector and will instil greater confidence in the community and the aged care sector. For operators and investors in the sector, these recommendations will provide cause for a greater sense of confidence. However, some uncertainty remains over exactly which recommendations will ultimately be accepted by Government.

Separate to the Royal Commissioners' recommendations, it is anticipated that superannuation will play a greater role in the funding of aged care. This possibility was canvassed in the November 2020 *Retirement Income Review,* chaired by Michael Callaghan and commissioned by the Commonwealth Treasurer, which observed the opportunity for a greater role for superannuation in financing the aged care system. Although the *Retirement Income Review* did not making any specific recommendations on this point, with the Government anticipated to make further changes to the superannuation system in the May 2021 budget, it is possible that the Government may consider fostering a greater role for superannuation in the financing equation of aged care.

Sector impact

Optimising the reform agenda

Navigating the road ahead

The Final Report provides a foundation for a reformed and refocused aged care system – which puts quality and safety at the heart of system redesign. The case for change is compelling. Despite divergence between the Commissioners on foundational issues of governance and funding, '… *disagreement about the best way for improvement to be achieved is not a justification for doing nothing'*, as Commissioner Pagone has highlighted.

While the extent and timing of the reform remains uncertain, what is clear is that the reform agenda will be ambitious and far reaching.

As the sector awaits the Government's formal response, expected to be delivered with the Federal Budget in May, there are key opportunities that providers can look to in the transformation journey ahead.

Governance

Providers who continue to prioritise the interests of their consumers and deliver on their social license will be well placed to adjust to the new *'rights based'* aged care legislation. This focussed mindset will complement the proposed governance recommendations designed to foster active oversight of key risks and quality indicators.

Key takeaways

- Providers should examine and optimise their existing processes to ensure that care recipients are at the centre of care.
- The leadership and boards of providers should adopt an *'always-on cycle'* when it comes to accountability and governance – maintaining rigorous standards of culture and governance.

Quality and safety

The delivery of safe, high quality aged care is the centrepiece of the Royal Commission's work. Providers must remain eternally vigilant to ensure they are delivering on their promise. The regulatory landscape is continuing to shift and providers should consider whether their processes are likely to remain *'fit for purpose'* in the context of the new aged care program.

Key takeaways

- Providers should review their clinical governance frameworks to ensure they are sufficiently robust to deliver safe and high quality care.
- Providers should consider whether their complaints policies are *'fit for purpose'* and adequate trend analysis and reporting is undertaken.

Workforce

The aged care workforce is a key link in the chain to delivering safe, high quality care. The Royal Commission's recommendations reflect changing community expectations as to the level of training, experience and remuneration of the aged care workforce. The introduction of a minimum staff time standard in residential aged care responds to sector and community expectations around the delivery of safe, high quality care, ensuring providers are better placed to meet the new statutory duty.

Key takeaways

- Providers should consider how possible award increases will impact the minimum rates provided in the organisation's enterprise agreement/s.
- Providers should consider how the minimum staffing level change will impact how the organisation deploys staff.

Financing and funding

The uplift in funding proposed by the Royal Commission will be broadly embraced by the sector. The devil, of course, is in the detail and the sector will hold its collective breath as it awaits Government's long-term plan to be delivered with the May Budget. Regardless of the ultimate funding mechanism, providers will welcome a relief to the funding pressures experienced over the last decade.

Key takeaways

> Providers should consider how the organisation is positioned to benefit from the proposed grant funding programs and the proposed increases to home care and residential care funding.

The work of the Royal Commission provides a roadmap for the aged care sector to review, rethink and rebuild. It is a once in a generation opportunity to shape the future of aged care and to drive long lasting cultural and behavioural change in how we care for ageing Australians. Navigating the road ahead will require strong leadership and collaboration across the broader aged care sector.

'[H]ow we care for our ageing is a reflection of who we are as a nation.'

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