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Aged Care Update: What to make of the Aged Care Royal Commission to date

The $104m Royal Commission into Aged Care Quality and Safety is gradually working its way through its terms of reference. At the time of writing this article, the Royal Commission had conducted 39 days of Hearings and six community forums across Australia, published seven Background Papers, held a number of invitation-only Roundtables, and was embarking on five days of Hearings focusing on the operation of the aged care quality and safety regulatory system.

The key matters that the Royal Commission is required to inquire into, and make recommendations on, include:

- the extent of substandard care being provided, the causes of any systemic failures, and any actions that should be taken in response;
- how best to deliver aged care services to young people with disabilities living in aged care homes and people living with dementia;
- the future challenges and opportunities for delivering accessible, affordable and high quality aged care services;
- what the Australian Government, aged care industry, families and the wider community can do to strengthen the system of aged care services;
- how to ensure aged care services are person-centred, including through allowing people to exercise greater choice, control and independence in relation to their care; and
- 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.

The Commission's main approach to date has been to use case studies at its Hearings to examine instances of substandard care and service delivery issues identified through public submissions, and to call expert witnesses about how more appropriate care can be delivered, including providers who are pursuing innovative models of care.

In undertaking its inquiry, the Commission has also recognised that quality aged care has multiple dimensions, namely: safety, various domains of clinical and personal care,

and quality of life, including cultural, socioeconomic and geographical factors.

Residential aged care

A major focus of the Commission to date has been on aspects of substandard care in residential aged care.

In particular, the inappropriate use of chemical and physical restraints; substandard dementia care and behaviour management practices; challenges in managing the intersection between the health and aged care sectors, including in relation to palliative care; substandard medication, pressure wound and continence management practices; inadequate attention to oral health; poor nutrition and hydration; challenges aged care providers in rural and regional locations face; and the challenges regarding access to culturally safe and culturally appropriate care by Indigenous communities.

With regard to restrictive practices, Counsel Assisting the Commissioners has observed that medications to control behaviour are being over prescribed in residential aged care, with psychotropic medication justified in only about 10% of cases, and that restrictive practices can be associated with increased risk of falls and strokes. Counsel Assisting also observed that aged care providers should obtain and retain documentary records that informed consent has been obtained. The Commission will be subjecting the recent changes to regulations introduced by the Australian Government intended to tighten the use of chemical and physical restraints to further scrutiny.

With regard to dementia care, Counsel Assisting noted the consensus from experts that dementia care is not meeting community expectations, and that the evidence suggests that a lack of understanding of dementia is common in the health and aged care sectors, and is likely to lead to substandard care. Key systemic contributors to substandard care identified by the Commission include a lack of respect for the person with dementia and for their choices and ability to express them, and a lack of willingness to partner with the person's family or informal carer.

Counsel Assisting also drew attention to the challenges presented in managing the intersection between the health and aged care sectors, including in relation to palliative care.There is also evidence of a lack of appropriate wound management skills in aged care which has resulted in misdiagnosis and treatment.

The Hearings also drew attention to inadequate expenditure by aged care homes on food, and homes that are following inappropriate food re-use and storage practices. It was noted that malnutrition and inadequate attention to oral health can have serious consequences for an older person's overall health, including increased risk of falls, osteoporosis and fractures, slowed wound-healing, extended hospital stays, cognitive impairment, increased risk of infection, and increased morbidity and mortality.

Overall, Counsel Assisting observed in relation to the attitudes encountered in residential care, that "there is evidence that, irrespective of whether one has dementia or is functioning at the highest level of cognition and articulation, ageing itself attracts poor attitudes and threats of denial of personhood". Moreover, social attitudes inform the delivery of aged care, including ageism, which can lead to the balance between autonomy and protection being skewed so that older people's wishes are not respected.

Home care

The Commission has also focussed on aspects of the home care package program, highlighting the "unacceptable waiting list for home care packages" that raise safety risks, including for informal carers; high administrative charges; unspent package funds held by providers that could be used to help address the waiting list; and concerns about

the robustness of approved provider approval processes and processes for quality regulation.

The Department of Health's advice that it would cost up to $2.5 billion per year just to address the current waiting list was highlighted by the Commission, along with the Commission's observation that the recent announcements of additional packages do not come close to meeting current and projected demand.

The Commission also heard evidence about difficulties informal carers are experiencing in accessing timely and high quality respite services and carer support services, especially for carers of people living with dementia, as well as deficiencies in the funding and assessment arrangements for respite care.

Aged care for Indigenous communities

A good deal of the Broome, Darwin, Cairns and Perth Hearings was directed at inquiring into access to aged care services by Indigenous communities, especially remote communities.

In summarising proceedings of these Hearings, Counsel Assisting highlighted the importance of culturally safe care which involves having an awareness of underlying community issues and cultural and social and emotional issues, as well as historical issues that affect the person's relationship with the care provider (such as the Stolen Generation experience).

Counsel also observed that culturally safe care requires an understanding of Country and the people who live there, including the role of the Elders within the community and their responsibilities towards the community. Services also need to respond to the particular needs of the community, recognising that the community is likely to have an embedded collectivist culture, where there are obligations owed by and to the Elders.

Counsel also noted that broader policy matters surrounding funding structures for Indigenous services "in their various complex forms", broader workplace-related issues, labour market supply and demand and the requirement for police checks would be examined further by the Commission.

Person-centred care

The Commission noted that the consensus of expert clinical witnesses supports inter-disciplinary person-centred and relationship-based care as being the approach that best enhances quality of life, recognising however a distinction between clinical and non-clinical care needs, noting that person-centred care has to be around the whole experience, not just the clinical experience.

Both the Whiddon Group and Wintringham were cited as aged care providers who are using good models of person-centred care that are able to work successfully under the current system, including in a way that prioritises dignity of risk and increases choice and control. Both organisations noted however that the delivery of person-centred care was financially challenging.

Their view on resourcing contrasted with the view of another (non-provider) expert witness who opined that, given the right leadership and conditions, person-centred care seems to be able to be delivered within the current funding structure. A similar view was put by another expert witness who stated that in the long run, person-centred care is more cost-effective for the organisation providing care.

Summing up on this point, Counsel Assisting concluded that there are providers who are

able to deliver person-centred care in the current system, and that person-centred care "should not be accepted as being impossible or particularly difficult with the right people and the right approach".

Workforce

Perhaps in contrast with the observation above, the biggest single issue arising from the Royal Commission's Hearings to date has been the implications of workforce for the quality of aged care services, including staff numbers, their skill levels, attraction, retention and remuneration, and timely access to medical services.

Overall, observations by Counsel Assisting are pointing to significant deficiencies in the current workforce.

These include the lack of mandatory qualifications and training requirements, particularly in relation to dementia and mental health issues, and evidence that a lack of understanding of dementia is common in both the health and aged care systems which is likely to lead to substandard care. More is needed to improve training of aged care management and staff in the proper assessment of the clinical and other circumstances of residents exhibiting behavioural and psychological symptoms of dementia.

Counsel has also observed that good dementia care seems likely to be more time-consuming and intensive, and that avoidance of restrictive practices requires time consuming and skilled interventions. Counsel Assisting noted that there are some homes where nurses provide only seven minutes of care per day per resident, and there is a lack of continuity of staffing, especially in home care to support a relationship approach to care and support.

Reflecting on the Hearings to date, Counsel Assisting has commented that "the solution must lie with organisational leadership and in particular supporting the workforce", and what is immediately clear is the need to foster the adoption of organisational leadership and a culture of care which places the interests and dignity of residents first.

The Royal Commission has scheduled Hearings on 14-18 October this year specifically to focus on how to enhance the aged care workforce's capacity and capability to provide high quality care to provide a good quality of life and to make the aged care industry a more attractive and rewarding place to work.

Looking ahead

Announced in September 2018, the Royal Commission is fast approaching its reporting deadlines, with an interim report due by 31 October 2019 and a final report by 30 April 2020.

Counsel Assisting has indicated that questions remain for the Royal Commission, including whether concerns about quality and safety in aged care will be addressed by current funding models, the current workforce and existing accreditation and standards.

Counsel has also indicated that, over the next few months, the Royal Commission's "attention will turn to an examination of the necessary reforms to the current aged care system to address the systemic problems that have emerged in the evidence, including problems with regulatory oversight, sustainability and funding arrangements".

As well as the above issues, the Commission has not at this stage dealt with young people with a disability living in aged care homes. Hearings focussing on this matter have been scheduled for 9-11 and 13 September.

It is anticipated that the Commission's interim report will document the systemic causes of substandard care and signal the direction of the reforms that will be needed. Precise recommendations for creating sustainable and quality services for older Australians that meet community expectations are expected to be included in the final report.

Notwithstanding the opinion of a couple of expert witnesses, the overwhelming evidence taken by the Commission is pointing to a significant under-resourcing of aged care, be it with regard to staff numbers, the need to increase skill levels, appropriately rewarding more highly skilled staff, improving access to specialist medical care, meeting the need for additional home care packages, increasing access to quality respite services and improving access for rural and remote communities.

The Commission so far gives every indication that it is looking to increased regulation to help address the above matters, especially in relation to workforce, but it must be remembered that increased regulation mostly comes at a cost which must be resourced. Increased regulation alone also cannot be expected to drive quality satisfactorily. Ensuring informed and appropriately supported consumer choice and control is not a substitute for an effective quality regulatory system, but it is an essential complement.

The perverse incentives compromising medical and clinical services for older Australians in aged care homes arising from the current separate private, state and Commonwealth funding of health and aged care services will also need to be addressed.

Moreover, recommendations to improve services without a transition plan for implementation of the recommendations would not only leave the job half done, but also introduce considerable risk to service continuity and service standards.

Under the current reporting timetable, the Royal Commission's recommendations will be available well before the next Federal election, which would normally be expected in the first half of 2022, but not in time for the next year's Budget (2020-21).

What is clear is that the full value of the Royal Commission will not be realised unless it can identify the additional funding sources that are acceptable to the community and affordable for the Australian economy.

If the current Government is serious about addressing aged care in this term - and one would assume it is given that calling an expensive Royal Commission that raises community expectations is no trivial matter - the framing of the 2020-21 Budget and forward estimates will need to have regard to the potential Budget implications of the Royal Commission's recommendations.

It will also need to have regard to the financial pressures currently being experienced by residential care providers, with no prospect of sustainable relief under the current ACFI funding model. Hence the Royal Commission's report will need to be considered in association with the introduction of a new funding model for personal care and nursing in residential care based on the new Australian National Aged Care Classification (AN-ACC) classification tool, which is about to be trialled.

Disclosure statement: The author of this Update, Nick Mersiades, is a member of the Aged Care Financing Authority. The opinions in this Update should not be read as being an expression of the views of the Aged Care Financing Authority.