

**ROYAL COMMISSION INTO AGED CARE QUALITY AND SAFETY**  
**COUNSEL ASSISTING'S FINAL SUBMISSIONS**  
**PROPOSED RECOMMENDATIONS**

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## PART 3.1 PRINCIPLES OF THE NEW AGED CARE SYSTEM

### Recommendation 1: A new Act

- 1.1. The *Aged Care Act 1997* (Cth) should be replaced with a new Act to come into force by no later than 1 July 2023. The objects of the new Act should be to:
  - a. provide a system of aged care based on a universal right to high quality, safe and timely support and care to:
    - i. assist older people to live an active, self-determined and meaningful life, and
    - ii. ensure older people receive high quality care in a safe and caring environment for dignified living in old age
  - b. protect and advance the rights of older people receiving aged care to be free from mistreatment and neglect, and harm from poor quality or unsafe care, and to continue to enjoy rights of social participation accessible to members of society generally
  - c. enable people entitled to aged care to exercise choice and control in the planning and delivery of their care
  - d. ensure equity of access to aged care
  - e. provide advocacy and complaint mechanisms for people receiving aged care
  - f. provide for regular and independent review of the aged care system
  - g. promote innovation in aged care based on research
  - h. promote positive community attitudes to enhance social and economic participation by people receiving aged care.
- 1.2. The new Act should state that the above objects are to be achieved by establishing:
  - a. the Australian Aged Care Commission
  - b. the Australian Aged Care Pricing Authority
  - c. the office of the Inspector-General of Aged Care
 and by the other provisions of the Act.

1.3. The new Act should:

- a. define aged care as:
  - i. support and care for people to maintain their independence as they age, including support and care to ameliorate age-related deterioration in their social, mental and physical capacities to function independently
  - ii. supports including respite for informal carers of people who need aged care
- b. provide that the paramount consideration in the administration of the Act should be ensuring the safety, health and wellbeing of people receiving aged care
- c. specify the following principles that should also guide the administration of the Act:
  - i. Older people should have certainty that they will receive timely high quality support and care in accordance with assessed need
  - ii. Informal carers of older people should have certainty that they will receive timely and high quality supports in accordance with assessed need
  - iii. Older people should be supported to exercise choice about their own lives and make decisions to the fullest extent possible, including being able to take risks and be involved in the planning and delivery of their care
  - iv. Older people should be treated as individuals and be provided with support and care in a way that promotes their dignity and respects them as equal citizens
  - v. Older people are entitled to pursue (and to be supported in pursuing) physical, social, emotional and intellectual development and to be active and engaged members of the community, regardless of their age or level of physical or cognitive capability
  - vi. The relationships that older people have with significant people in their lives should be acknowledged, respected and fostered

- vii. To the fullest extent possible, older people should receive support and care in the location they choose or, where that is not possible, in the setting most appropriate to their circumstances and preferences
- viii. Older people are entitled to receive support and care that acknowledges the aged care setting is their home and enables them to live in security, safety and comfort with their privacy respected
- ix. Older people should have equal access to support and care irrespective of their location or personal circumstances or preferences
- x. Care should be provided in a healthy environment which protects older people from risks to their health
- xi. Care and supports should, as far as possible, emphasise restoration and rehabilitation, with the aim of maintaining or improving older people's physical and cognitive capabilities and supporting their self-determination
- xii. Aboriginal and Torres Strait Islander people are entitled to received support and care that is culturally safe and recognises the importance of their personal connection to community and Country
- xiii. The system should support the availability and accessibility of aged care for all older Australians, including special or vulnerable groups
- xiv. The aged care system should be transparent and provide public access to meaningful and readily understandable information about aged care
- xv. Innovation, continuous improvement and contemporary best practice in aged care are to be promoted
- xvi. Older people should be supported to give feedback and make complaints free from reprisal or adverse impacts
- xvii. People receiving aged care should respect the rights and needs of other people living and working within their environment, and respect the general interests of the community in which they live; the rights and freedoms of



people receiving aged care should be only limited by the need to respect the rights of other members of their community.

- 1.4. The new Act should specify a list of rights of people seeking and receiving aged care, and should declare that the purposes of the Act include the purpose of securing those rights and that the rights may be taken into account in interpreting the Act and any instrument made under the Act. The list of such rights should be:
  - a. for people seeking aged care:
    - i. the right to equitable access to care services
    - ii. the right to exercise choice between available services
  - b. for people receiving aged care
    - i. the right to freedom from degrading or inhumane treatment, or any form of abuse
    - ii. the right to liberty, freedom of movement, and freedom from restraint
    - iii. the right of autonomy, the right to the presumption of legal capacity, and in particular the right to make decisions about their care and the quality of their lives and the right to social participation
    - iv. the right to fair, equitable and non-discriminatory treatment in receiving care
  - c. for people receiving end-of-life care, the right to fair, equitable and non-discriminatory access to palliative and end-of-life care.
- 1.5. Unless indicated otherwise, the new Act should incorporate provisions giving effect to amendments to the *Aged Care Act 1997* (Cth) and the *Aged Care Quality and Safety Commission Act 2018* (Cth) (as well as to delegated legislation made under those Acts) the subject of other recommendations.

### **Recommendation 2: Integrated long-term support and care for older people**

- 2.1. The Australian Government should coordinate the development of an integrated system for the long-term support and care of older people providing for their needs for welfare support, community services directed at enhancing social participation, affordable and appropriate housing, high quality health care, and aged care, through a new National Cabinet Reform Committee on Ageing and Older Australians, to be established between the Australian and State and Territory Governments, and composed of the highest-ranking ministers whose primary responsibility is the care, health and wellbeing of older people.
- 2.2. Work on a strategy to develop the integrated system for the long-term support and care of older people should begin immediately. That work should involve consultation with older people. The strategy should be agreed between the Australian and State and Territory Governments by 31 December 2022. The strategy should include measurable goals, regular reporting on progress to the National Federation Reform Council, and two-yearly public progress reports.
- 2.3. The strategy should provide for implementation of an integrated system for the long-term support and care of older people within a 10-year period.

## **PART 3.2 DESIGN OF THE NEW AGED CARE SYSTEM**

### **Recommendation 3: Australian Aged Care Commission**

- 3.1. By 1 July 2023, the Australian Aged Care Commission should be established under the new Act as a corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* (Cth), with its own legal personality, and able to sue and be sued. The Commission should be independent of Ministerial direction, and there should be a requirement that any expectations or advice provided by the responsible Minister to the Commission should be made public. The Commission should have:

- a. a governing board appointed by the Governor-General, in which the authority and functions of the Commission should be vested under the new Act, comprising:
  - i. at least three non-executive members, who are to constitute the majority of the board and one of whom is to be appointed as chair of the board, and who are to be chosen for their integrity, eminence and public standing, each of whom must be independent of any current involvement in the aged care sector, and who together are representative of the community and should have a range of backgrounds and skills including experience and proven capacity in: aged care, clinical services, human services, legal services, and corporate governance; and in one or more of the financial, accounting or general business areas
  - ii. the Secretary of the Department administered by the responsible Minister, who shall be an *ex officio* member of the board
  - iii. the presiding commissioner of the Commission, who shall be the chief executive officer of the Commission and may participate in the deliberations of the board of the Commission except where the presiding commissioner has a material personal interest in the subject matter under deliberation
- b. no fewer than five assistant commissioners to be appointed by the board on the basis of their integrity, standing, skills, and expertise, one of whom must be a person of Aboriginal or Torres Strait Islander background, one of whom will be responsible for complaints, and another of whom will have workforce development and training as a dedicated portfolio
- c. staff employed or engaged by the Commission (whether under the provisions of the *Public Service Act 1999* (Cth) or otherwise), who should be subject to the direction and supervision of the commissioners
- d. a distributed network of offices including regional offices to deliver or manage the delivery of assessment and care finding services,

administer the aged care program, and provide general assistance to the public, and a head office outside Canberra

- e. system management functions, including support and funding of local assessment and care finding teams and personnel, provision of information on services and providers (including through My Aged Care), system data management, ensuring the coverage of service availability for all aged care services to which people are assessed as eligible, commissioning and funding of providers to provide sufficient aged care services in all locations, providing assistance to providers to build capacity where appropriate, and managing the orderly exit of consistently poor-performing providers
- f. the following functions:
  - i. approval of service providers as providers eligible to receive subsidies for providing aged care
  - ii. financial risk monitoring of providers, and prudential regulation of providers
  - iii. approval of the scope of subsidised services approved providers may provide, and accreditation of the outlets ('services') through which they provide them
  - iv. payment of subsidies to approved providers of aged care
  - v. quality and safety regulation of approved providers and their services
  - vi. ensuring that appropriate aged care services are widely available for Aboriginal and Torres Strait Islander people
  - vii. workforce planning and development, including setting and refining requirements for minimum staffing levels and minimum qualifications for staff providing care, and (through a workforce planning division within or operated by the Commission) ongoing development of workforce capacity through requirements for training and professional development
  - viii. consulting with the Australian Commission on Safety and Quality in Health and Aged Care (which is to be responsible under the new Act for review and setting of quality and safety standards and quality indicators) on reviews and revisions of

the standards and indicators for the provision of safe and high quality aged care

- ix. management of complaints about providers, staff, assessors and care finders
- g. the primary responsibility for system governance, including the responsibility of continuously monitoring the performance of the system, formulating new policy and reform proposals for improvement of the performance of the system, limited authority to make legislative instruments about the details of arrangements for the administration of funding and service delivery, and the responsibility for recommending other amendments of legislation and delegated legislation to the responsible Minister
- h. an obligation to report regularly to the Inspector-General of Aged Care and to the responsible Minister on the performance of its functions
- i. an obligation to lay before the Parliament and to publish an annual report on all important aspects of the operation of the new Act, including:
  - i. the extent of unmet demand for aged care, including unmet demand for particular services or in particular places
  - ii. the adequacy of the Commonwealth subsidies provided to meet the care needs of people needing or receiving aged care
  - iii. the extent to which providers are complying with their responsibilities under the Act
  - iv. the amounts paid by people receiving residential care in connection with their care, including amounts paid for accommodation and daily living needs
  - v. the amounts paid for accommodation in the form of lump sum deposits and in the form of daily payments
  - vi. the duration of waiting periods for assessment, and between assessment and commencement of provision of particular services, including respite and residential care

- vii. the extent of building, upgrading and refurbishment of aged care facilities, and
- viii. such other aspects of the operation of the Act as the Commission considers relevant to ensure an accurate understanding of the operation of the Act.

#### **Recommendation 4: Aged Care Advisory Council**

- 4.1. By 1 December 2021, the responsible Minister should appoint an Aged Care Advisory Council, to be constituted by such people of eminence, expertise and knowledge of aged care services as the Minister sees fit, drawn from all relevant aspects of the aged care system, including people receiving aged care, representatives of the aged care workforce, approved providers, health and allied health professionals, specialists in training and education, and independent experts.
- 4.2. The Advisory Council should be established with its own secretariat, funded by the Australian Government, for the purpose of providing advice on aged care policy, service arrangements and any aspect of the performance of the aged care system, to the Australian Aged Care Commission and the Minister. It should convene itself regularly, and should have authority to provide advice to the Commission and the Minister on its own initiative. In addition, the Commission and the Minister should have authority to convene it on reasonable notice, and may refer particular issues to it for advice.

#### **Recommendation 5: Australian Aged Care Pricing Authority**

- 5.1. The Australian Government should establish an Aged Care Pricing Authority and confer on it all necessary functions for determining prices (inclusive of subsidies and user contributions) for specified aged care services so as to meet the reasonable and efficient costs of delivering those services. Its functions should include the function of identifying and recommending to the Australian Aged Care Commission the aged care services for which price cap determinations or other forms of economic regulation may be appropriate.

### **Recommendation 6: Inspector-General of Aged Care**

- 6.1. The Australian Government should establish an independent office of the Inspector-General of Aged Care to monitor and report on the administration and governance of the aged care system, including:
  - a. the implementation of the reforms recommended by the Royal Commission
  - b. the performance by the Australian Aged Care Commission and the Australian Aged Care Pricing Commission of their functions
  - c. the extent to which the aged care system attains the objects of the new Act.
- 6.2. An Inspector-General should be appointed forthwith under interim administrative arrangements, and should in due course be established formally under the new Act.

### **Recommendation 7: Enhanced individual advocacy**

- 7.1. By 1 July 2022, the Australian Government should, through the implementation unit referred to in Recommendation 123, complete a consultation with the contracted provider of services under the National Aged Care Advocacy program in order to determine the extent of unmet demand for prompt advocacy services by people seeking or receiving aged care services. In light of the conclusions reached by the implementation unit after that consultation, the Australian Government should increase the funding of the National Aged Care Advocacy program to a level that provides for increased coverage of the program so as to meet currently unmet demand for prompt advocacy services.

## **PART 3.3 PROGRAM DESIGN**

### **Recommendation 8: A new aged care program**

- 8.1. By 1 July 2024, the Australian Government should implement a new aged care program that combines the existing Commonwealth Home Support Programme, Home Care Packages Program, and the Residential Aged Care Program, including Respite Care and Short-Term Restorative Care. The new program should aim to retain the benefits of each of the

component programs, while delivering a more comprehensive continuum of care for older people. The core features of the program should be:

- a. a common set of eligibility criteria, identifying a need (whether of a social, psychological or physical character) to prevent or delay deterioration in a person's capacity to function independently, or to ameliorate the effects of such deterioration, and to enhance the person's ability to function independently as well as possible, for as long as possible
- b. an entitlement to all forms of support and care which the individual is assessed as needing
- c. a single assessment process, using the same assessment framework and arrangements for assessors
- d. certainty of funding based on assessed need
- e. genuine choice accorded to each individual over how their aged care needs are to be met (including choice of provider and level of engagement in managing care, and appropriate and adapted supports to enable people from diverse backgrounds and experiences to exercise choice)
- f. access to one or multiple categories of the aged care program simultaneously, based on need
- g. portability of entitlement between providers and across State or Territory borders.

### **Recommendation 9: Meeting preferences to age in place**

- 9.1. The Australian Government should clear the home care package waiting list, otherwise known as the National Prioritisation System, by:
  - a. immediately increasing the home care packages available and allocating a package to all people on the waiting list that do not have a package or do not have a package at the level they have been approved for (as set out in their letter from the Aged Care Assessment Team/Service). The package allocated should be at the level the person was approved for (Level 1, 2, 3 or 4). This must be completed by 31 December 2021



- b. keeping the waiting list clear by allocating a home care package at the approved level to any new entrants to the waiting list within one month of the date of their assessment. This must occur between 1 January 2022 and 1 July 2024
- c. publicly reporting, each quarter, the status of the waiting list, showing progress in clearing the waiting list as set out in paragraphs a. and b. above, at a national, State or Territory, and regional level. This report should include reasons for delay in clearing the waiting list and actions being taken to address the delay. This must occur every quarter from 31 March 2021 to 1 July 2024.

#### **Recommendation 10: Care finders to support navigation of aged care**

- 10.1. From 1 July 2023, the Australian Aged Care Commission should engage, support and fund 'care finders' to provide assistance on a local, face-to-face basis, to people seeking or receiving aged care services. The care finders should be Commonwealth, State or Territory or local government employees who have suitable skills and experience in meeting the needs of people for aged care, health care, social work or other human services, or otherwise demonstrate aptitude for a highly trusted role in assisting older people who have such needs.
- 10.2. Pending establishment of the Commission, the implementation unit referred to in Recommendation 123 should commence engagement of care finders.

#### **Recommendation 11: Improved public awareness of aged care**

- 11.1. By 1 July 2022, the Australian Government in cooperation with other levels of government, and working with health professionals, aged care providers and Primary Health Networks, should fund and support education and information strategies to:
  - a. improve public awareness of resources to assist people to plan for ageing and potential aged care needs

- b. improve knowledge about aged care among those responsible professionals with whom older people have frequent contact
- c. encourage discussion about and consideration of aged care needs.

11.2. These strategies should be implemented by 1 July 2022 and should:

- a. support a continuum of planning for ageing, including consideration of health care preferences, finances, housing and social engagement
- b. bring older people's general practitioners to the centre of their planning for ageing and aged care
- c. be evaluated and revised annually by the Australian Aged Care Commission.

### **Recommendation 12: A single comprehensive assessment process**

12.1. By 1 July 2023, the Australian Government should replace the Aged Care Assessment Program and the Regional Assessment Services with a single assessment process. That assessment process should:

- a. be independent from approved providers, so that a person's level of funding should be determined independently of the approved provider, but that determination may involve consultation with providers or prospective providers, provided final assessment decisions affecting eligibility for funding are made by independent assessors
- b. occur, wherever possible, before funded services commence, although funded services may be offered on an interim basis pending assessment where this is necessary in the opinion of a care finder
- c. be efficient and scalable according to the complexity of needs and vulnerability of the older person
- d. be forward-looking and promote older people's autonomy and self-determination
- e. include assessment of the need for care management and the intensity and complexity of that need

- f. include an assessment of any informal carer's needs
  - g. use multidisciplinary teams for more complex needs.
- 12.2. People should be provided with details of their assessed need and funding level at the conclusion of the assessment process.
- 12.3. Reasonable requests for reassessment of need can be made by a person receiving care (or their informal carer, close family or other representative), their care finder, or their approved provider.

### **Recommendation 13: Respite supports category**

- 13.1. From 1 July 2022, the Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should implement a respite supports category within the aged care program that:
- a. supports the carers of older people earlier and more often to maintain their wellbeing and supports the caring relationship
  - b. provides a greater range of high quality respite support in people's homes, in cottages and in purpose-built facilities
  - c. provides people with up to 63 days of respite per calendar year
  - d. is grant funded with a capital component.
- 13.2. The respite supports category should continue within the new aged care program from 1 July 2024.

### **Recommendation 14: Approved provider's responsibility for care management**

- 14.1. From 1 July 2022, unless an assessment team has assessed the person as eligible for home care (or, from 1 July 2024, care at home) without the need for any care management, the person's approved provider must assign a care manager to the person.
- 14.2. In the case of home care (or, from 1 July 2024, care at home), if the person has more than one approved provider, the person's lead provider must assign a care manager to the person.

14.3. Care management should be scaled to match the complexity of the older person's needs and should be provided in a manner that respects any wishes of the person to be involved in the management of their care.

14.4. The care manager should:

- a. have relevant qualifications and experience as a registered nurse or allied health professional
- b. consult with the person and, if applicable, their carer, to develop a comprehensive support and care plan, including activities to promote various aspects of health and wellbeing and to enhance their ability to live or participate in the community and address their strengths, capability, aspirations and goals
- c. implement, monitor and review the support and care plan, and adjust as appropriate
- d. for home care (or, from 1 July 2024, care at home), meet the requirements for care management set out in the care recipient's care plan and (if applicable) personalised budget
- e. for residential care:
  - i. identify when the older person accessing aged care services requires additional care beyond the usual services provided by the approved provider
  - ii. take reasonable steps to ensure that the older person in aged care accesses appropriate health care at an appropriate time
  - iii. take reasonable steps to ensure that any health care plan is implemented on an ongoing basis and updated as required
  - iv. liaise with general practitioners, other primary health care providers, including allied health care providers, specialists and multidisciplinary outreach services; and take reasonable steps to ensure that staff of the provider are available to support visiting health practitioners
  - v. liaise with the person's family and staff of the aged care provider.

### **Recommendation 15: Social supports category**

- 15.1. From 1 July 2022, the Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should implement a social supports category within the aged care program that:
- a. provides supports that reduce and prevent social isolation and loneliness among older people
  - b. can be co-ordinated to the greatest practicable extent in each location with services and activities provided by local government, community organisations and business designed to enhance the wellbeing of older people
  - c. includes the social support, delivered meals and transport service types from the Commonwealth Home Support Programme
  - d. is grant funded.
- 15.2. The social supports category should continue within the new aged care program from 1 July 2024.

### **Recommendation 16: Assistive technology and home modifications category**

- 16.1. From 1 July 2022, the Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should implement an assistive technology and home modifications category within the aged care program that:
- a. provides goods (including aids and appliances) and services that promote a level of independence in daily living tasks and reduces risks to living safely at home
  - b. includes the assistive technology, home modifications and hoarding and squalor service types from the Commonwealth Home Support Programme
  - c. is grant funded.
- 16.2. The assistive technology and home modifications category should continue within the new aged care program from 1 July 2024.

### **Recommendation 17: Residential care category**

17.1. From 1 July 2024, the Australian Government and the Australian Aged Care Commission should implement a category within the new aged care program for residential care that:

- a. provides older people with:
  - i. goods and services to meet daily living needs
  - ii. accommodation
  - iii. care and support to preserve and, where possible, restore capacity for meaningful and dignified living in a safe and caring environment
- b. ensures care is available for people who can no longer live at home due to their frailty, vulnerability or behavioural and psychological symptoms of dementia, or other similar reasons
- c. provides integrated and high quality and safe care based on assessed needs, which allows for personalised care, regular engagement, and a coordinated and integrated range of supports across the following domains:
  - i. Care management
  - ii. Social supports, including support for psychological, cultural and (if applicable) spiritual wellbeing
  - iii. Personal, clinical, enabling, therapeutic care and support – including nursing care and allied health care
  - iv. Palliative and end-of-life care.

### **Recommendation 18: Residential aged care to include allied health care**

18.1. To ensure residential aged care includes a level of allied health care appropriate to each person's needs, the Australian Government and the Australian Aged Care Commission should, by no later than 1 July 2024:

- a. require approved providers to engage at least one of each of the following allied health professionals: an oral health practitioner; a mental health practitioner; a podiatrist; a physiotherapist; an

occupational therapist; a pharmacist; a speech pathologist; a dietitian; an exercise physiologist; a music or art therapist

- b. require providers to enter into arrangements with each of the following professional groups to provide services as required to care recipients: optometrists; audiologists
- c. provide funding to approved providers for the engagement of allied health professionals through a blended funding model, including:
  - i. a capped base payment per resident designed to cover about half of the costs of establishing ongoing engagement of allied health professionals
  - ii. an activity-based payment for each item of direct care provided

with the Australian Aged Care Pricing Authority determining the quantum of funding for the base payment and the level of activity-based payments, including by taking into account the extra costs of providing services in regional, rural and remote areas

- d. ensure strict monitoring of the level of allied health services that are actually delivered, including collection and review of data on the number of full-time equivalent allied health professionals delivering services, the number of current allied health assessments, the volume of service provision, and expenditure on allied health services.

### **Recommendation 19: Designing for diversity**

19.1. The Australian Government (or, from 1 July 2023, the Australian Aged Care Commission) should:

- a. by 1 July 2022, implement:
  - i. training requirements as a condition of approval or continued approval of providers that all staff engaged by providers who are involved in direct contact with people seeking or receiving services in the aged care system undertake regular training about cultural safety and trauma-informed service delivery
  - ii. similar training requirements for people engaged to provide care finder and assessment services

- iii. as a condition of approval or continued approval of any aged care providers who publicly represent their ability to provide specialised services for groups of people of diverse experience or background, a requirement to verify to the satisfaction of the Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) that the provider has proper grounds for making that representation
- b. by 1 July 2022:
  - i. formulate a standard dataset and data collection mechanism for collecting, monitoring, analysing and using data about the diverse characteristics and life experiences of older people seeking or receiving aged care, including, as considered appropriate, people whose circumstances are not currently included in the 'special needs' provision, such as those living with mental illness, dementia or disability, and
  - ii. commence collection and analysis of those data for the purpose of identifying variations in and improving equity of access and utilisation of aged care by people of diverse backgrounds and experiences
- c. complete, by 1 July 2024, a national audit evaluating regional and local variation in levels of services for people from diverse backgrounds and life experiences, and, in light of the outcomes of the national audit, thereafter undertake commissioning arrangements to address deficits in meeting the needs of people from diverse backgrounds on a regional and local basis as required
- d. report to the Inspector-General and the public on the extent to which the needs of diverse older people are being met by the aged care system by 31 December 2024.

### **Recommendation 20: Planning based on need, not rationed**

- 20.1. By 1 July 2024, the Australian Government should develop and implement a new planning regime, to replace the Aged Care Provision Ratio, which:
- a. supports a funding allocation that is sufficient to meet people's entitlements for their assessed need



- b. provides for demand-driven access to aged care based on assessed need
- c. funds cost-effective enabling care in the interests of people who need such care
- d. collects data to monitor outputs and outcomes
- e. aligns planning boundaries for Aged Care Planning Regions with boundaries based on Primary Health Network regions so that aged care planning is aligned with primary health care and hospital planning.

## PART 3.4 QUALITY AND SAFETY

### **Recommendation 21: Embedding high quality aged care**

21.1. The *Aged Care Act 1997* (Cth) should be amended to provide that the Australian Commission on Safety and Quality in Health and Aged Care, in setting and amending safety and quality standards for aged care (under the functions referred to in Recommendation 23), give effect to the following characteristics of high quality aged care:

- a. diligent and skilful care
- b. safe and insightful care
- c. caring relationships
- d. empowering care
- e. timely care.

### **Recommendation 22: A general duty to provide high quality and safe care**

22.1. The new Act should include a general, positive and non-delegable statutory duty on any approved provider to ensure that the personal care or nursing care they provide is of high quality and safe so far as is reasonable having regard to:

- a. any reasonably foreseeable risks to any person to whom the provider provides, or is engaged to provide, that care

- b. the wishes of any person for whom the provider provides, or is engaged to provide, that care, and
- c. any other relevant circumstances.

22.2. Any entity which facilitates the provision of aged care services funded in whole or in part under the new Act should have a duty to ensure that any worker whom it makes available to perform personal care work has the experience, qualifications, skills and training to perform the particular personal care work the person is being asked to perform.

**Recommendation 23: Aged care standard setting by the re-named Australian Commission on Safety and Quality in Health and Aged Care**

23.1. Section 9 of the *National Health Reform Act 2011* (Cth) should be amended urgently to:

- a. rename the Australian Commission on Safety and Quality in Health Care as the 'Australian Commission on Safety and Quality in Health and Aged Care', and
- b. confer upon that body the functions of formulating standards, guidelines and indicators relating to aged care safety and quality.

23.2. Amendments to section 10 of the *National Health Reform Act 2011* (Cth) should also be made to provide for an appropriate consultation process for the Commission's aged care functions.

**Recommendation 24: Urgent review of the Aged Care Quality Standards**

24.1. By 15 July 2021, the responsible Minister should refer to the Australian Commission on Safety and Quality in Health and Aged Care the following matters for urgent ad hoc review and, if the Commission considers appropriate, amendment of the Aged Care Quality Standards:

- a. requiring best practice oral care, medication management, pressure injury prevention, wound management, continence care, falls prevention, and infection control, and providing sufficient detail on what these requirements involve and how they are achieved

- b. imposing appropriate requirements to meet resident nutritional needs and ensure meals are desirable to eat, having regard to a person's preferences and religious and cultural considerations
- c. sufficiently reflecting the needs of people living with dementia and providing high quality dementia care
- d. implementing a new governance standard
- e. requiring residential aged care providers to demonstrate their capacity to provide high quality palliative care, including staff capacity (number, skill and type), processes and clinical governance, for recognising deterioration and dying.

24.2. The Australian Commission on Safety and Quality in Health and Aged Care should complete its review by 31 December 2022.

#### **Recommendation 25: Priority issues for periodic review of the Aged Care Quality Standards**

25.1. By 1 July 2022, the responsible Minister should refer the following matters for the Australian Commission on Safety and Quality in Health and Aged Care to consider as part of the first comprehensive review of the Aged Care Quality Standards:

- a. imposing appropriate requirements relating to the professional development and training for staff
- b. including sufficient reference to and delineation between staff practice roles and responsibilities
- c. requiring providers to assist people receiving care to make and update advance care plans if they wish to, and ensuring that those plans are followed
- d. reflecting the Aged Care Diversity Framework and underlying Action Plans, including considering making them mandatory.

#### **Recommendation 26: Aged Care Quality Standards**

26.1. The renamed Australian Commission on Safety and Quality in Health and Aged Care should complete a comprehensive review of the Aged Care Quality Standards within three years of taking on the standard-setting

function and every 5 years after that. It should also be empowered to undertake ad hoc reviews and make corresponding amendments either of its own motion or where issues are referred to it for consideration by the Australian Aged Care Commission or the responsible Minister.

### **Recommendation 27: Establishment of a dementia support pathway**

27.1. By 1 January 2023, the Australian Government should establish a comprehensive, clear and accessible post-diagnosis support pathway for people living with dementia and their carers and families. This should involve:

- a. providing information and advice on dementia and support services, including the aged care system
- b. facilitating access to peer support networks
- c. providing education courses, counselling and support services for both people living with dementia and their family and carers
- d. providing assistance with planning for continued living and access to care, including regular and planned respite for carers.

27.2. The Australian Government should provide information and material to general practitioners and geriatricians on the pathway and encourage them to refer people to the pathway at the point of diagnosis.

### **Recommendation 28: Specialist dementia care services**

28.1. By 1 July 2023, the Australian Government should review and publicly report on:

- a. whether the number of Specialist Dementia Care Units established or planned to be established is sufficient to meet need within the areas and populations they are designed to cover
- b. the capacity of those Units to meet the needs of people exhibiting extreme changed behaviour and whether any further resources are required
- c. the suitability of the Units for shorter stay respite for people living with moderate to extreme changed behaviour.

- 28.2. The outcome of the review should be implemented by the Australian Government as a matter of urgency.
- 28.3. The Australian Government should immediately ensure that the specialist dementia service it funds provides treatment to people with a mental health condition if they meet other eligibility criteria (including, for instance, a diagnosis of dementia).

### **Recommendation 29: Regulation of restraints**

- 29.1. By 1 July 2021, the Australian Government should introduce new requirements regulating the use of chemical and physical restraints in residential aged care to replace Part 4A of the *Quality of Care Principles 2014* (Cth).
- 29.2. The new requirements should comprehensively regulate the use of chemical and physical restraints in residential aged care and should be informed by:
  - a. the report of the review conducted pursuant to section 15H of the *Quality of Care Principles 2014* (Cth)
  - b. the report of the Parliamentary Joint Committee on Human Rights on the *Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019* (Cth), and
  - c. the operation of the National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018 (Cth).
- 29.3. A person receiving aged care who is the subject of a restraint should be readily able to seek an independent review of the lawfulness of the conduct.
- 29.4. Any breach by an approved provider of the new requirements should expose the provider to a civil penalty.
- 29.5. The Australian Commission on Safety and Quality in Health and Aged Care should review the operation of the new requirements as part of its first comprehensive review of the Aged Care Quality Standards.

### **Recommendation 30: Quality indicators**

- 30.1. By 15 July 2021, the responsible Minister should refer to the Australian Commission on Safety and Quality in Health and Aged Care responsibility for the introduction, implementation and amendment of aged care quality indicators, including:
- a. ongoing research into the use and evidence basis for quality indicators
  - b. publication of guidance on use of indicator data to identify risks and to undertake evidence-based risk management.
- 30.2. By 1 July 2023, the Australian Commission on Safety and Quality in Health and Aged Care should:
- a. expand the suite of quality indicators for care in residential aged care
  - b. develop quality indicators for care at home, and
  - c. implement a comprehensive quality of life assessment tool for people receiving aged care in residential care and at home.
- 30.3. In the interim, in addition to the existing commitment to implement quality indicators in the new domains of falls and fractures and medication management, the Australian Government should expand the National Mandatory Indicator Program, as set out in the 2019 PwC Consultation Paper 'Development of Residential Aged Care Quality Indicators', to use more comprehensive indicators for the existing domains of pressure injuries, physical restraint and unplanned weight loss.

### **Recommendation 31: Using quality indicators for continuous improvement**

- 31.1. By 1 July 2022, the Australian Government should implement reporting and benchmarking of provider performance against quality indicators. To achieve this:
- a. the Australian Commission for Safety and Quality in Health and Aged Care should develop a methodology to enable providers to be benchmarked against similar providers
  - b. the Australian Government should track sector and provider performance and set progressive improvement targets to raise performance against quality indicators over time

- c. the Australian Government should publicly report on sector and provider performance against benchmarks.

31.2. From 1 July 2023 onwards, the Australian Aged Care Commission should assume responsibility for the functions and powers in subparagraphs 31.1. b. and c.

## PART 3.5 ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE

### **Recommendation 32: Aboriginal and Torres Strait Islander service arrangements within the new aged care system**

32.1. The Australian Government should ensure that the new aged care system makes specific and adequate provision for the changing and diverse needs of Aboriginal and Torres Strait Islander people and that:

- a. Aboriginal and Torres Strait Islander people receive culturally respectful and safe, high quality, trauma-informed, needs-based and flexible aged care services regardless of where they live
- b. priority is given to existing and new Aboriginal and Torres Strait Islander organisations, including health, disability and social service providers, to cooperate and become providers of integrated aged care services
- c. regional service delivery models that promote integrated care are deployed wherever possible
- d. there is a focus on providing services within, or close to, Aboriginal and Torres Strait Islander populations while maximising opportunities for people to remain on, and maintain connection with, their Country and communities
- e. aged care is available and providers are engaged at the local aged care planning region level on the basis of objectively established need that is determined in consultation with Aboriginal and Torres Strait Islander populations and communities, and recognising that aged care needs and service delivery preferences may vary between locations and population centres
- f. older Aboriginal and Torres Strait Islander people are given access to interpreters on at least the same basis as members of culturally

and linguistically diverse communities when seeking or obtaining aged care including health care services.

**Recommendation 33: An Aged Care Commissioner within the Australian Aged Care Commission with oversight of Aboriginal and Torres Strait Islander aged care**

- 33.1. By 1 July 2023, there should be within the Australian Aged Care Commission a statutory role that involves the ongoing fostering, promotion and development of culturally safe, tailored and flexible aged care services for Aboriginal and Torres Strait Islander people across the country. The person appointed to this role shall be an Aboriginal or Torres Strait Islander person.
- 33.2. In advance of the formal establishment of the Commission, a person should be appointed by 31 December 2021 under interim administrative arrangements to perform relevant functions and exercise relevant powers.

**Recommendation 34: Cultural safety**

- 34.1. By 1 July 2022, the Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should:
- a. require all of its employees who are involved in the aged care system, and any care finders who are not its employees, to undertake regular training about cultural safety and trauma-informed service delivery
  - b. require all aged care providers which promote their services to Aboriginal and Torres Strait Islander people to:
    - i. train their staff in culturally safe and trauma-informed care, and
    - ii. demonstrate to the Australian Aged Care Commission that they have reached an advanced stage of implementation of the Aboriginal and Torres Strait Islander Action Plan under the Diversity Framework
- 34.2. From 1 July 2023, the Australian Aged Care Commission should:



- a. ensure care finders serving Aboriginal and Torres Strait Islander communities are local Aboriginal and Torres Strait Islander people who are culturally trained and familiar with existing Aboriginal and Torres Strait Islander service providers who are trusted by the local population
- b. wherever possible, ensure aged care assessments of Aboriginal and Torres Strait Islander people are conducted by assessors who are, wherever possible, Aboriginal or Torres Strait Islander people, or others who have undertaken training in cultural safety and trauma-informed approaches
- c. work with State and Territory Governments to establish culturally appropriate advance care directive processes, guidance material and training for aged care providers that account for the diversity of cultural practices and traditions within each State and Territory.

**Recommendation 35: Prioritising Aboriginal and Torres Strait Islander organisations as aged care providers**

- 35.1. The Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should assist Aboriginal and Torres Strait Islander organisations to expand into aged care service delivery, whether on their own or in partnership with other organisations, including Aboriginal Community Controlled Organisations and existing Aboriginal and Torres Strait Islander providers.
- 35.2. In fostering additional providers, the Australian Government and the Commission should provide a degree of flexibility in the approval and regulation of Aboriginal and Torres Strait Islander aged care providers to ensure:
  - a. existing Aboriginal and Torres Strait providers are not disadvantaged and should continue to provide high quality and safe aged care while being assisted to meet the new provider requirements
  - b. other organisations that wish to move into aged care to enhance services to Aboriginal and Torres Strait Islander people across Australia are given special consideration.

35.3. Flexible mechanisms should include additional time to meet new requirements, alternative means of demonstrating the necessary capability or requirement, and, in some very limited cases, exemptions. Assistance should include financial assistance for capacity building.

**Recommendation 36: Employment and training for Aboriginal and Torres Strait Islander aged care**

36.1. By 1 December 2022, the Australian Government should:

- a. develop a comprehensive national Aboriginal and Torres Strait Islander Aged Care Workforce Plan in consultation with the National Advisory Group for Aboriginal and Torres Strait Islander Aged Care, including:
  - i. the refinement of existing Aboriginal and Torres Strait Islander training and employment programs
  - ii. targets for the training and employment of Aboriginal and Torres Strait Islander people across the full range of aged care roles
- b. provide the funds necessary to implement the Plan and meet the training and employment targets
- c. work with the State and Territory Governments to implement the Plan, including making vocational educational training facilities, teachers and courses available in urban, rural, regional and remote Australia.

36.2. In the interim, the Australian Government should ensure, in consultation with the National Advisory Group for Aboriginal and Torres Strait Islander Aged Care, that the existing employment programs and initiatives for Aboriginal and Torres Strait Islanders are aligned to the needs of the aged care sector.

**Recommendation 37: Funding cycle**

- 37.1. The Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should block fund providers under the Aboriginal and Torres Strait Islander Aged Care Service Arrangements (see Recommendation 32) on a three to seven year rolling assessment basis.
- 37.2. The Australian Aged Care Pricing Authority should:
- a. set the funding of the Aboriginal and Torres Strait Islander aged care service arrangements following advice from the Aged Care Custodian
  - b. annually assess and adjust the block funding on the basis of the actual costs incurred while providing culturally safe and high quality aged care services to Aboriginal and Torres Strait Islander people in the preceding year.

### **Recommendation 38: Program streams**

- 38.1. Under the Aboriginal and Torres Strait Islander Aged Care Service Arrangements, the Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should:
- a. provide flexible grant funding streams that are able to be pooled for:
    - i. home and community care
    - ii. residential and respite care (including transition)
  - b. establish funding streams under the Aboriginal and Torres Strait Islander aged care service arrangements that allow Aboriginal and Torres Strait Islander aged care service arrangement providers to apply for funding for:
    - i. capital development and expenditure
    - ii. provider development
  - c. make funds available, on application, for any residential aged care provider that has Aboriginal and Torres Strait Islander residents who require assistance to retain connection to their Country, including meeting the costs of:
    - i. travel to and from Country, as well as the costs of any people needed to provide clinical or other assistance to the resident to make the trip
    - ii. a family member travelling to and from the older person at a distant residential facility
    - iii. establishing, maintaining and using infrastructure that facilitates connection between the residential facility and communities on Country, such as videoconferencing technology.

## **PART 3.6 AGED CARE WORKFORCE**

### **Recommendation 39: Aged care workforce planning**

- 39.1. The Australian Government should establish an Aged Care Workforce Planning Division within the Australian Department of Health by 1

January 2022. When the Australian Aged Care Commission is established, the Division should be transferred to the Commission, answering to an Assistant Commissioner. It should be responsible for developing workforce strategies for the aged care sector through:

- a. long-term workforce modelling on the supply and demand of health professionals, including allied health professionals, and care workers
- b. consultation with the providers of education and training for health professionals and personal care workers, in partnership with the State and Territory Governments, Universities, Registered Training Organisations, National Boards, professional associations, and specialist colleges
- c. ensuring an appropriate distribution of health professionals (including allied health professionals) and care workers to meet the needs of population across the aged care sector, particularly in regional, rural and remote Australia
- d. aged care workforce planning, including through modelling, and shaping the role of immigration and changes to visa arrangements as a workforce strategy to address aged care workforce needs.

39.2. By 1 July 2022, the Aged Care Workforce Planning Division should prepare an interim workforce strategy and planning framework for the next 3 years (2022–25).

39.3. By 1 July 2025, the Aged Care Workforce Planning Division within the Australian Aged Care Commission should prepare a 10 year workforce strategy and plan, following the interim 3 year Workforce Strategy (2025–35).

39.4. The Aged Care Workforce Planning Division should be supported by an Aged Care Workforce Fund that can be used to support training, clinical placements, scholarships and other initiatives to respond in a targeted manner to the workforce challenges that the Division identifies.

#### **Recommendation 40: Aged Care Workforce Council**

40.1. By 1 July 2021, the Australian Government should strengthen the capacity of the Aged Care Workforce Council by:

- a. having an Australian Government representative become a member and assume the role of chair
- b. reviewing membership of the Council to ensure it is comprised of individuals, including worker representatives who represent the diversity of the aged care workforce with an appropriate mix of skills and experience to lead and drive change across the sector
- c. providing the necessary funding and resources to enable the Council to implement workforce recommendations of this Royal Commission and to build on its work implementing the Aged Care Workforce Strategy Taskforce's strategic actions.

40.2. By 30 June 2022, the Aged Care Workforce Council should:

- a. re-profile all aged care occupational groups, jobs and job grades to ensure they reflect the skills, capabilities, knowledge and competencies as well as the structure required in the new aged care system
- b. revise the competency and accreditation requirements for all job grades in the aged care sector to ensure education and training builds the required skills and knowledge
- c. standardise job titles, job designs, job grades and job definitions for the aged care sector, and
- d. lead the Australian Government and the aged care sector to a consensus to support applications to the Fair Work Commission to improve wages based on work value and or equal remuneration. This may include re-defining job classifications and job grades in relevant awards.

40.3. The Aged Care Workforce Council should work collaboratively with the proposed Aged Care Workforce Planning Division so that its work complements aged care workforce design and planning.

40.4. From 1 July 2022, the Aged Care Workforce Council, in conjunction with the National Careers Institute, peak industrial partners, Universities Australia and VET providers, and informed by its work on redefining the Aged Care Workforce structure, should develop and document a clear set of career pathways for the aged care sector. These career pathways should:

- a. highlight opportunities for nurses to advance in clinical and managerial roles in the aged care sector
  - b. facilitate personal care workers having opportunities to move laterally across aged care, disability care, community care and primary health care and vertically in aged care by advancing into nursing, specialist care roles and supervisory or managerial roles
  - c. develop and document career opportunities in the aged care sector for non-direct care workers, including kitchen hands, cooks, cleaners, gardeners, drivers, security and people performing administrative roles.
- 40.5. By 1 July 2022, the Human Services Skills Organisation should develop detailed multimedia careers information for prospective aged care workers including information about work experience opportunities and pre-employment programs with approved aged care providers and nominated Registered Training Organisations.

#### **Recommendation 41: Increases in award wages**

- 41.1. Employee organisations entitled to represent the industrial interests of aged care employees covered by the *Aged Care Award 2010*, the *Social, Community, Home Care and Disability Services Industry Award 2010* and the *Nurses Award 2010* should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to:
- a. reflect the work value of aged care employees in accordance with section 158 of the *Fair Work Act 2009* (Cth), and/or
  - b. seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the *Fair Work Act 2009* (Cth).

#### **Recommendation 42: Improved remuneration for aged care workers**

- 42.1. In setting prices for aged care, the Aged Care Pricing Authority should take into account the need to attract sufficient staff with the appropriate

skills to the sector, noting that relative remuneration levels are an important driver of employment choice.

**Recommendation 43: Review of certificate-based courses for aged care**

- 43.1. By 1 January 2022, the Human Services Skills Organisation should
- a. review the need for specialist aged care Certificate III and IV courses, and
  - b. commence an annual cycle of review of the content of the Certificate III and IV courses and consider if any additional units of competency should be included.

**Recommendation 44: Dementia and palliative care training for workers**

- 44.1. The Australian Government should implement, by 1 July 2022, as a condition of approval or continued approval of aged care providers that all staff engaged by providers who are involved in direct contact with people seeking or receiving services in the aged care system undertake regular approved training about dementia care and palliative care.

**Recommendation 45: Review of health professions' undergraduate curricula**

- 45.1. By 1 January 2023, the relevant national boards, professional associations, and accreditation bodies for nursing, medicine, audiology, optometry, dietetics, dental practice, psychology, social work, occupational therapy, osteopathy, podiatry, physiotherapy and speech therapy should review existing course accreditation standards to ensure professional entry qualifications for these professions are appropriately addressing age-related conditions and illnesses, including dementia, to ensure that graduates have the education and knowledge to meet the care needs of older people.



**Recommendation 46: Minimum staff time standard for residential care**

- 46.1. The Australian Government should require approved providers of residential aged care facilities to meet a minimum staff time quality and safety standard. This requirement should take the form of a quality and safety standard for residential aged care. The minimum staff time standard should allow approved providers to select the appropriate skills mix for delivering high quality care in accordance with their model of care.
- 46.2. From 1 July 2022, the minimum staff time standard should require approved providers to engage registered nurses, enrolled nurses, and personal care workers for at least 215 minutes per resident per day for the average resident, with at least 36 minutes of that staff time provided by a registered nurse.
- 46.3. In addition, from 1 July 2022, the minimum staff time standard should require at least one registered nurse on site per residential aged care facility for the morning and afternoon shifts (16 hours per day).
- 46.4. From 1 July 2024, the minimum staff time standard should increase to require approved providers to engage registered nurses, enrolled nurses, and personal care workers for the average resident for at least:
  - a. 215 minutes per resident per day for the average resident, with at least 44 minutes of that staff time provided by a registered nurse, or
  - b. 264 minutes per resident per day for the average resident, with at least 36 minutes of that staff time provided by a registered nurse.
- 46.5. In addition, from 1 July 2024, the minimum staff time standard should require at least one registered nurse on site per residential aged care facility at all times.
- 46.6. The minimum staff time standard should be linked to the casemix adjusted activity based funding model for residential aged care facilities. This means that approved providers with a higher than average proportion of high needs residents would be required to engage additional staff, and vice versa.
- 46.7. Approved providers should be able to apply to the Australian Aged Care Commission for an exemption from the quality and safety standard relating to staff skills mix, but not the standard relating to numbers of staff.

Any exemption should be granted for a limited time, and details of the exemption should be published on My Aged Care. The grounds for granting an exemption should include:

- a. specific purpose residential aged care facilities, such as specialist homeless facilities, where the profile of the residents is such that it may be appropriate to substitute a registered nurse with another qualified health professional
- b. residential aged care facilities that are co-located with a health service, such as Multi-Purpose Services, where registered and enrolled nurses are present at the co-located health service
- c. regional, rural and remote residential aged care facilities, where the approved provider can demonstrate it has been unable to recruit sufficient numbers of staff with the requisite skills, and
- d. innovative residential aged care facilities where an alternative skills mix is being trialled and it would be appropriate to substitute a registered nurse with another qualified health professional. There should be a requirement for any such trial to be comprehensively evaluated and publicly reported.

46.8. The Australian Commission on Safety and Quality in Health and Aged Care should review and update this standard as appropriate. At a minimum, this should occur in line with significant revisions of the casemix classification for residential aged care facilities, or at least every five years.

#### **Recommendation 47: National personal care worker registration scheme**

47.1. By 1 July 2022, the Australian Health Practitioner Regulation Agency should establish a National Board and a registration scheme for personal care workers, with the following key features:

- a. a mandatory minimum qualification
- b. ongoing training and continuing professional development requirements
- c. minimum levels of English language proficiency
- d. criminal history screening requirements

- e. a code of conduct and power for the registering body to investigate complaints into breaches of the Code of Conduct.

47.2. For existing aged care workers who do not meet the mandatory minimum qualification requirements, there should be transitional arrangements that allow them to apply to the National Board for registration based on their experience and prior learning.

#### **Recommendation 48: Mandatory minimum qualification for personal care workers**

48.1. A Certificate III should be the mandatory minimum qualification required for personal care workers performing paid work in aged care. The proposed Personal Care Worker National Board should establish an accreditation authority to:

- a. develop and review accreditation standards for the mandatory minimum qualification
- b. assess programs of study and education providers against the standards, and
- c. provide advice to the National Board on accreditation functions.

48.2. The National Board should approve the accredited program of study, and review the need for personal care workers in home care to have specialised skills or competencies.

#### **Recommendation 49: Funding for teaching aged care programs**

49.1. By 1 July 2023, the Australian Government should fund teaching aged care programs for delivery to students in both residential aged care and home care settings. The teaching aged care programs should have designated catchment areas and should:

- a. operate on a 'hub and spokes' model
- b. collaborate with educational institutions and research entities
- c. facilitate clinical placements for university and vocational education and training sector students
- d. train future aged care workers in local aged care services.

## PART 3.7 INFORMAL CARERS

### **Recommendation 50: Informal carers and assisting them to receive support**

50.1. The Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should improve services and support for informal carers by:

- a. linking My Aged Care and the Carer Gateway by 1 July 2022, to enable the sharing of information to enable respite available through My Aged Care and support services available on the Carer Gateway to be identified jointly and to be provided in a co-ordinated manner
- b. on and from 1 July 2022:
  - i. enabling direct referral and information sharing for informal carers between My Aged Care, care finders, assessment services and the Carer Gateway
  - ii. providing accurate and up-to-date information on My Aged Care about the range of supports locally available to informal carers, including training, education, counselling, income support, and access to the Carers Hub network (once established)
- c. on and from 1 July 2023:
  - i. requiring My Aged Care, care finders and assessment services to identify informal carers when assessing a person for aged care
  - ii. enabling care finders to refer informal carers to assessment services for assessment for and access to formal respite care
  - iii. supporting and funding a community-based Carers Hub network.

### **Recommendation 51: Volunteers and Aged Care Volunteer Visitors Scheme**

51.1. From 1 July 2021, the Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should promote volunteers and volunteering in aged care to support older people to live a meaningful and dignified life and supplement the support and care provided to them through the aged care system, whether in their own home or in a residential care home, by:

- a. increasing the funding to the Volunteer Grants under the Families and Communities Program – Volunteer Grants Activity in 2021–22 to support organisations and community groups to recruit, train and support volunteers who provide assistance to older people
- b. requiring, as a condition of approval and continuing approval of all approved providers, that all aged care services, which use volunteers to deliver in-house co-ordinated and supervised volunteer programs, must:
  - i. assign the role of volunteer coordination to a designated staff member
  - ii. provide induction training to volunteers and regular ongoing training, to volunteers in caring for and supporting older people, complaints management and the reporting of abuse and neglect
  - iii. retain evidence of provision of such training
- c. providing additional funding, and expanding the Community Visitor Scheme and changing its name to the Aged Care Volunteer Visitors Scheme, to provide extended support for older people receiving aged care who are at risk of social isolation.

## **PART 3.8 PROVIDER GOVERNANCE**

### **Recommendation 52: Legislative amendments to improve provider governance**

52.1. By 1 January 2022, the *Aged Care Act 1997* (Cth) should be amended to require that:

- a. the governing body of an approved provider providing personal care services must have a majority of independent non-executive members (unless the provider has applied to the Aged Care Quality and Safety Commissioner for an exemption and the exemption has been granted)
- b. the constitution of an approved provider must not authorise a member of the governing body to act other than in the best interests of the provider
- c. an applicant for approval to provide aged care services must notify the Aged Care Quality and Safety Commissioner of its key personnel, and an approved provider must notify the Commissioner of any change to key personnel within ten business days of the change
- d. a 'fit and proper person' test (replacing the 'disqualified individual' test) applies to key personnel
- e. an approved provider must provide an annual report to the Secretary of the Australian Department of Health containing information to be made publicly available through My Aged Care.

52.2. By 1 January 2022, the *Freedom of Information Act 1982* (Cth) should be amended to remove from Schedule 3 of that Act references to provisions in the *Aged Care Act 1997* (Cth) and the *Aged Care Quality and Safety Commission Act 2018* (Cth), thereby ensuring that the exemption in section 38 of the Freedom of Information Act does not apply to 'protected information' under aged care legislation merely on the grounds that it is information that relates to the affairs of:

- a. an approved provider
- b. an applicant for a grant under Chapter 5 of the Aged Care Act
- c. a service provider of a Commonwealth-funded aged care service, or
- d. an applicant for approval under section 63B of the Aged Care Quality and Safety Commission Act.

52.3. The new Act should contain provisions reflecting both the amendments to the Aged Care Act and the system governance arrangements provided for in that new Act. Under the new Act, the system governor and quality regulator will be the Australian Aged Care Commission. The government

functions in subparagraphs 52.1.a., c. and e. above will be undertaken by the Australian Aged Care Commission.

### **Recommendation 53: New governance standard**

53.1. Any governance standard for aged care providers developed by the Australian Commission on Safety and Quality in Health and Aged Care should require every approved provider to:

- a. have members of the governing body who possess between them the mix of skills, experience and knowledge of governance responsibilities, including care governance, required to provide governance over the structures, systems and processes for ensuring the safety and high quality of the care delivered by the provider
- b. have a care governance committee, chaired by a non-executive member with appropriate experience in care provision, to monitor and ensure accountability for the quality of care provided, including clinical care, personal care and services, and supports for daily living
- c. allocate resources and implement mechanisms to support regular feedback from and engagement with people receiving aged care, their representatives, and staff to obtain their views on the quality and safety of the services that are delivered and the way in which they are delivered or could be improved
- d. have a system for receiving and dealing with complaints, including regular reports to the governing body about complaints and containing, among other things, an analysis of the patterns of and underlying reasons for complaints
- e. have effective risk management practices covering care risks as well as financial and other enterprise risks, and give particular consideration to ensuring continuity of care in the event of default by contractors or subcontractors
- f. have a nominated member of the governing body:
  - i. attest annually on behalf of the members of the governing body that they have satisfied themselves that the provider

has in place the structures, systems and processes to deliver safe and high quality care, and

- ii. if such an attestation cannot be given, explain the inability to do so and how it will be remedied.

#### **Recommendation 54: Program of assistance to improve governance arrangements**

54.1. The Australian Government should establish an ongoing program commencing in the 2021–22 financial year to provide assistance to approved providers to improve their governance arrangements, including their care governance arrangements.

### **PART 3.9 RESEARCH, INNOVATION AND TECHNOLOGY**

#### **Recommendation 55: Dedicated Research Council**

55.1. By 1 July 2022, the Australian Government should establish and fund a dedicated Aged Care Research Council to:

- a. set the strategy and agenda for research and development into aged care and ageing related health conditions
- b. administer an aged care and ageing related health conditions research fund with an annual budget, funded by a special appropriation, of 1.8% of the total government expenditure on aged care
- c. conduct peer review of projects to determine funding allocations
- d. prioritise research that involves co-design with older people, their families and the aged care workforce
- e. facilitate networks between research bodies, academics, industry and government for research, technology pilots and innovation projects, and assist with the translation of research into practice to improve aged care in Australia
- f. work with the Australian Research Council, the National Health and Medical Research Council, and health and research networks to facilitate the sharing and application of research outcomes with



policy makers, research bodies, health care bodies, approved providers and the community

- g. ensure that research into ageing-related health conditions is high on the national research agenda including for the Australian Research Council and the National Health and Medical Research Council.

#### **Recommendation 56: Data governance and an aged care national minimum dataset**

56.1. The Australian Government should establish the framework to enable the Australian Aged Care Commission to effectively take leadership of and responsibility for aged care data on and from 1 July 2023. This will require the Australian Government to:

- a. establish a 'management group' to develop an outcomes framework for an aged care national minimum dataset
- b. develop data sharing agreements, in accordance with any relevant legislation, and under agreements with the States and Territories, to support timely access to and linkage of data for the aged care national dataset and quality indicators
- c. ensure that legislative hurdles to the Australian Institute of Health and Welfare obtaining aged care national minimum dataset elements are removed and the collection is timely and mandatory
- d. ensure the Australian Institute of Health and Welfare Authority is funded to curate and regularly publish an aged care national minimum dataset through an unconditional annual appropriation from the Federal Budget adequate to perform the curation and publication of the dataset and publish aged care data for public education through the GEN website.

56.2. The Australian Aged Care Commission's aged care data functions will involve:

- a. chairing the 'management group' to develop an outcomes framework for an aged care national minimum dataset, including ensuring that relevant stakeholders are consulted

- b. overseeing the development of a common language and standardisation of aged care data, including consideration of interoperability with the health care sector
- c. facilitating the development of software for use by approved providers, to be accredited by the Australian Institute of Health and Welfare for collection of aged care national minimum dataset elements and quality indicator data and incorporating compliance with the Aged Care Quality Standards
- d. facilitating the development of software and ICT systems to enable automatic reporting by approved providers on mandatory reporting obligations, quality indicators, prudential arrangements and other responsibilities
- e. establishing arrangements consistent with the 'collect once, use many times' principle, including:
  - i. ICT interoperability arrangements between the Australian Aged Care Commission and the Australian Commission on Safety and Quality in Health and Aged Care to enable the sharing of data relevant to the functions of both organisations
  - ii. ensuring administrative data relevant to approved providers, such as assessment data, is made available to providers, and
  - iii. ensuring a mechanism exists for approved providers to effectively and securely transfer information about a consumer when the consumer changes service providers.

56.3. The *Australian Institute of Health and Welfare Act 1987* (Cth), and other legislation as required, should be amended as necessary to achieve the objectives of this recommendation. This should include ensuring the Institute has the powers and responsibilities necessary to undertake the curation and publication of the aged care national minimum dataset.

56.4. The Australian Institute of Health and Welfare should accredit software used by approved providers and, where relevant, data custodians assessed as compatible with the dataset specifications of the aged care national minimum dataset.

## PART 3.10 ACCOMMODATION

### **Recommendation 57: Improving the design of aged care accommodation**

57.1. The Australian Government should guide the design of more appropriate residential aged care accommodation for older people by:

- a. developing and publishing by 1 July 2022 a comprehensive set of national aged care design principles and guidelines on accessible and dementia-friendly design for residential aged care, which should be:
  - i. capable of application to ‘small home’ models of accommodation as well as to enablement and respite accommodation settings
  - ii. amended from time to time as necessary to reflect contemporary best practice
- b. implementing by no later than 1 July 2023 a program to promote adoption of the National Aged Care Design Principles and Guidelines in design and construction of residential aged care buildings, which program should include:
  - i. industry education, including sharing of best practice models
  - ii. financial incentives, whether by increased accommodation supplements or capital grants or other measures or a combination of such measures, for residential aged care buildings that comply with the Guidelines
- c. advancing to the National Federation Reform Council by 1 July 2025 a proposal for amendments to Class 9c of the *National Construction Code* to require the adoption of accessible and dementia-friendly design standards for any new residential aged care buildings, or those proposed to be substantially refurbished, according to specifications informed by the National Aged Care Design Principles and Guidelines.

### **Recommendation 58: Capital grants for ‘small home’ models of accommodation**

- 58.1. The Australian Government should expand, with effect from 1 January 2022, the Rural, Regional and Other Special Needs Building Fund to provide additional capital grants for building or upgrading residential aged care facilities to provide small scale congregate living.
- 58.2. A majority of the people who receive, or who will receive, aged care at the premises to which any such grant relates should, within the meaning of section 7 of the *Grant Principles 2014* (Cth), be one or more of the following:
- a. supported residents, concessional residents or assisted residents
  - b. people with special needs
  - c. low-means care recipients
  - d. people who live in a location where there is a demonstrated need for additional residential care services
  - e. people who do not live in a major city.
- 58.3. A capital grants program for building or upgrading residential aged care facilities to provide small scale congregate living should continue after the introduction of the new Act.

### PART 3.11 YOUNGER PEOPLE IN RESIDENTIAL AGED CARE

#### **Recommendation 59: No younger people in residential aged care**

- 59.1. The Australian Government should immediately put in place the means to achieve, and to monitor and report on progress towards, the commitments announced by the Australian Prime Minister on 25 November 2019 to ensure that:
- a. no person under the age of 65 enters residential aged care from 1 January 2022
  - b. no person under the age of 45 lives in residential aged care from 1 January 2022
  - c. no person under the age of 65 lives in residential aged care from 1 January 2025
- by:

- a. referring for assessment by the agency most appropriate for the assessment of the person concerned, such as the National Disability Insurance Agency (and not an Aged Care Assessment Team or Aged Care Assessment Service), any younger person who is at risk of entering residential aged care
- b. developing hospital discharge protocols with State and Territory Governments to prevent discharge into residential aged care of any younger person
- c. developing, funding and implementing with State and Territory Governments programs for short-term and long-term accommodation and care options for any younger person who is:
  - i. living in or at risk of entering residential aged care and
  - ii. not eligible to be a participant in the National Disability Insurance Scheme
- d. requiring the National Disability Insurance Agency to publish an annual Specialist Disability Accommodation National Plan setting out, among other things, priority locations and proposed responses to thin markets
- e. providing directly for, where appropriate and necessary, accommodation in the Specialist Disability Accommodation market, particularly in thin or underdeveloped markets
- f. funding dedicated and individualised advocacy services for younger people who are living in or at risk of entering residential aged care
- g. collecting data on an ongoing basis, and publishing up-to-date collected data each quarter, on, for each State and Territory, the number of younger people living in residential aged care and, among other things
  - i. their age ranges
  - ii. the average length of time in residential aged care
  - iii. the numbers of admissions into and discharges from residential aged care, and

- iv. the reasons for younger people exiting from residential aged care, such as death, turning 65 years old or moving into the community
- h. having the responsible Minister report to the Parliament every six months about progress towards achieving the announced commitments, and
- i. ensuring that a younger person will only ever live in residential aged care if it is in the demonstrable best interests of the particular person (and is independently certified to be such by someone with suitable skills, experience, training and knowledge of the person) in limited and exceptional circumstances such as, for instance, where:
  - i. the person will turn 65 years old within a short period of time, being no more than three months, after entering into residential aged care
  - ii. the person's close relatives over 65 years of age live in a residential aged care facility and the person would suffer serious hardship on being separated from those relatives
  - iii. an Aboriginal or Torres Strait Islander person between the age of 50 and 64 years old elects to live in residential aged care.

### **PART 3.12 AGED CARE FOR PEOPLE WITH DISABILITY**

#### **Recommendation 60: Equity for people with disability receiving aged care**

- 60.1. By 1 July 2024, every aged care recipient with a disability or disabilities, regardless of when acquired, should receive through the aged care program daily living supports and outcomes (including assistive technologies, aids and equipment) equivalent to those that would be available under the National Disability Insurance Scheme to a person with the same or substantially similar conditions.

**Recommendation 61: Annual reporting to Parliament by the Disability Discrimination Commissioner and the Age Discrimination Commissioner**

- 61.1. By 1 July 2024, the Disability Discrimination Commissioner and the Age Discrimination Commissioner should be required, as part of the new National Disability Strategy, to report annually to the Parliament on the numbers of aged care recipients with disabilities who are 65 years old or older and their ability to access daily living supports and outcomes (including assistive technologies, aids and equipment) equivalent to those available under the National Disability Insurance Scheme.

**PART 3.13 BETTER ACCESS TO HEALTH CARE**

**Recommendation 62: A new primary care model to improve access**

- 62.1. Commencing by no later than 1 January 2024, the Australian Government should implement a new voluntary primary care model for people receiving aged care.
- 62.2. The new primary care model would have the following characteristics:
- a. general practices may, if they choose, apply to the Australian Government to become accredited aged care general practices
  - b. the initial accreditation criteria would be:
    - i. accreditation with the Royal Australian College of General Practitioners
    - ii. participation in after-hours cooperative arrangements, and
    - iii. use of My Health Record
  - c. over time, as aged care general practices mature, the accreditation requirements could be strengthened
  - d. each accredited aged care general practice would enrol people receiving residential care or personal care at home who choose to be enrolled with that practice
  - e. each accredited aged care general practice would receive an annual capitation payment for every enrolled person, based on the person's level of assessed need

- f. an accredited aged care general practice would agree with each enrolled person and the person's aged care provider on how care will be provided, including by any use of telehealth services and nurse practitioners
- g. the accredited aged care general practice would be required to:
  - i. meet the primary health care needs of each enrolled older person (including through any cooperative arrangements with other general practices to provide after-hours care if required)
  - ii. use My Health Record in conjunction with aged care providers
  - iii. initiate and take part in regular medication management reviews
  - iv. prepare an 'Aged Care Plan' (in collaboration with a geriatrician and the aged care provider and others) for each enrolled person
  - v. accept any person who wishes to enrol with it (subject to geography) to avoid practices accepting only patients with less complex care needs, and
  - vi. report on performance against a range of performance indicators, including immunisation rates and prescribing rates
- h. the capitation payment would be reduced by the value of benefits paid when an enrolled person sees a general practitioner in another practice.

62.3. The Australian Government should undertake a thorough evaluation of the new primary care model in 2030 and make appropriate adjustments to the model at that time.

### **Recommendation 63: Royal Australian College of General Practitioners' accreditation requirements**

63.1. By 31 December 2021, the Royal Australian College of General Practitioners should amend its *Standards for general practices* to allow for accreditation of general practices which practise exclusively in



providing primary health care to aged care recipients in residential aged care facilities and in their own homes.

**Recommendation 64: Access to specialists and other health practitioners through Multidisciplinary Outreach Services**

- 64.1. By 1 January 2022, the Australian and State and Territory Governments should introduce Local Hospital Network-led multidisciplinary outreach services.
- 64.2. These services should be funded through amendment of the National Health Reform Agreement, and all aged care recipients receiving residential care or personal care at home should have access based on clinical need.
- 64.3. The amended National Health Reform Agreement should include a recurrent and sustainable funding mechanism to stimulate outreach services. The level of funding should be based on underlying costs as determined by the Independent Hospital Pricing Authority.
- 64.4. The key features of the model should include:
  - a. provision of services in a person's place of residence wherever possible
  - b. multidisciplinary teams, including nurse practitioners, allied health practitioners and pharmacists
  - c. access to a core group of relevant specialists, including geriatricians, psychogeriatricians and palliative care specialists
  - d. embedded escalation to other specialists (including endocrinologists, cardiologists, infectious disease specialists and wound specialists), who are already salaried within the hospital and assigned to the model for part of their work
  - e. 24 hour a day on-call services available to:
    - i. aged care recipients receiving residential care or personal care at home
    - ii. the families of those people receiving aged care, and
    - iii. staff of aged care services
  - f. proactive care and rehabilitation

- g. a focus where feasible on skills transfer to staff working in aged care
- h. a specific focus on palliative care outreach services
- i. clinical governance arrangements involving Local Hospital Networks and relevant aged care and primary care providers.

#### **Recommendation 65: Increased access to Older Persons Mental Health Services**

65.1. By 1 January 2022, the Australian and State and Territory Governments should:

- a. fund separately under the National Health Reform Agreement outreach services delivered by State and Territory Government older persons mental health services to aged care recipients receiving residential care or personal care at home
- b. introduce performance measures and benchmarks for these outreach services
- c. promulgate standardised service eligibility criteria for hospital, community based, and aged care older persons mental health services that do not exclude from eligibility for such services people with dementia.

#### **Recommendation 66: Establish a Senior Dental Benefits Scheme**

66.1. The Australian Government should establish a new Senior Dental Benefits Scheme, commencing no later than 1 January 2023, which will:

- a. fund dental services to people who:
  - i. live in residential aged care, or
  - ii. live in the community and receive the age pension or qualify for the Commonwealth Seniors Health Card
- b. include benefits set at a level that minimises gap payments, and includes additional subsidies for outreach services provided to people who are unable to travel, with weightings for travel in remote areas

- c. provide benefits for services limited to treatment required to maintain a functional dentition (as defined by the World Health Organization) with a minimum of 20 teeth.

**Recommendation 67: Short-term changes to the Medicare Benefits Schedule to improve access to medical and allied health services**

67.1. The Australian Government should:

- a. create new Medicare Benefits Schedule items by 1 November 2021 to allow for a benefit to be paid for a comprehensive health assessment, whether conducted by a general practitioner or a nurse practitioner, when an aged care recipient begins to receive residential aged care or personal care at home and at six month intervals thereafter, or more frequently if there is a material change in a person's circumstances or health
- b. immediately amend the Medicare Benefits Schedule to allow benefits to be paid under the GP Mental Health Treatment items 2700 to 2717 to patients receiving these services within a residential aged care service
- c. create new Medicare Benefits Schedule items by 1 November 2021 for:
  - i. a mental health assessment, and subsequent development of a treatment plan, by a general practitioner or psychiatrist, within two months of a person's entry into residential aged care
  - ii. three monthly re-assessments or reviews of a mental health assessment by a general practitioner, psychiatrist, or psychologist
- d. create new Medicare Benefits Schedule items by 1 November 2021, with the value of the benefit aligned with recommended professional fees, for allied mental health practitioners providing services to people in residential aged care and:
  - i. the number of services for which a benefit is payable should be based on clinical advice

- ii. these benefits should cease on 1 January 2023, when the aged care allied health funding arrangement is established
- e. amend the General Practitioner Aged Care Access Incentive payment to:
  - i. increase the minimum annual number of services required by general practitioners to qualify for the payment and the amount of the corresponding payment
  - ii. introduce incremental increases to the amount of the payment for general practitioners who deliver more the minimum annual number of services

and index these amounts on the same basis as Medicare Benefits Schedule general practitioner attendance items.

**Recommendation 68: Enhance the Rural Health Outreach Fund to improve access to medical specialists for people receiving aged care**

68.1. The Australian Government should:

- a. amend the priorities of the Rural Health Outreach Fund by 1 July 2021 to include delivery of:
  - i. geriatrician services in regional, rural and remote Australia, and
  - ii. medical specialist services to people receiving aged care in regional, rural and remote Australia
- b. increase, for these additional priorities, the annual funds available by \$9.6 million, starting in the 2021–22 financial year, and
- c. ensure that these additional priorities of the Fund are maintained on an ongoing basis.

**Recommendation 69: Access to specialist telehealth services**

69.1. By 1 November 2021, the Australian Government should:

- a. expand access to Medicare Benefits Schedule-funded specialist telehealth services to aged care recipients receiving personal care at home
- b. require aged care providers delivering residential care or personal care at home to have the necessary equipment and clinically and culturally capable staff to support telehealth services.

#### **Recommendation 70: Increased access to medication management reviews**

- 70.1. The Australian Government should immediately improve access to quality medication management reviews for people receiving aged care by:
- a. allowing and funding pharmacists from 1 January 2022 to conduct reviews on entry to residential care and annually thereafter, or more often if there has been a significant change to the care recipient's condition or medication regimen
  - b. amending the criteria for eligibility for residential medication management reviews to include people in residential respite care and transition care
  - c. monitoring quality and consistency of medication management reviews.

#### **Recommendation 71: Restricted prescription of antipsychotics**

- 71.1. By 1 November 2021, the Australian Government should amend the Medicare Benefits Schedule so that only a psychiatrist or a geriatrician can initially prescribe antipsychotics. General practitioners should be able to prescribe repeat prescriptions of antipsychotics for up to a year for people who have received an original prescription from a psychiatrist or geriatrician.

#### **Recommendation 72: Improving the transition between residential aged care and hospital care**

- 72.1. The Australian and State and Territory Governments should:

- a. by 1 July 2022, implement, and commence publicly reporting upon compliance with, hospital discharge protocols that ensure that discharge to residential aged care from hospital should only occur once appropriate clinical handover and discharge summary (including medications list) has been provided to and acknowledged by the residential care service, and provided to the person being discharged
- b. by 1 December 2021, require staff of aged care services, when calling an ambulance for a resident, to provide the paramedics on arrival with an up-to-date summary of the resident's health status, including medications and advance care directives.

**Recommendation 73: Improving data on the interaction between the health and aged care systems**

- 73.1. The Australian Government and State and Territory Governments should improve the data available to monitor the interaction between the health and aged care systems and improve health and aged care planning and funding decisions. In particular:
- a. the Australian Government should implement an aged care identifier by 1 July 2022 in the Medicare Benefits Schedule and Pharmaceutical Benefits Schedule datasets to allow regular public reporting on the number and type of medical and pharmaceutical services provided to people receiving aged care
  - b. by 1 July 2023 all National Minimum Datasets reported to the Australian Institute of Health and Welfare should include an item identifying whether a person is receiving aged care services and the type of aged care the person is receiving
  - c. National Minimum Datasets covering all State and Territory Government-funded health services should be implemented by 1 July 2023
  - d. all governments should implement a legislative framework by 1 July 2023 for health and aged care data to be directly linked, shared and analysed to understand the burden of disease of current and prospective aged care recipients and their current and future health needs

- e. the Australian Government should direct the Australian Institute of Health and Welfare to include data tabulated on the basis of aged care recipient status in any relevant health statistical publications, and make the de-identified data publicly available through the Australian Government's data portal data.gov.au.

**Recommendation 74: Universal adoption by the aged care sector of digital technology and My Health Record**

74.1. The Australian Government should require that, by 1 July 2022:

- a. every approved provider of aged care:
  - i. uses a digital care management system (including an electronic medication management system) meeting a standard set by the Australian Digital Health Agency and interoperable with My Health Record
  - ii. invites each person receiving aged care from the provider to consent to his or her care records being made accessible on My Health Record
  - iii. if the person consents, places that person's care records (including, at a minimum, the categories of information required to be communicated upon a clinical handover) on My Health Record and keeps them up to date
- b. the Australian Digital Health Agency immediately prioritises support for aged care providers to adopt My Health Record.

**Recommendation 75: Clarification of roles and responsibilities for delivery of health care to people receiving aged care**

75.1. By 31 December 2021, the Australian and State and Territory Governments should amend the National Health Reform Agreement to include an explicit statement of the respective roles and responsibilities of approved aged care providers and State and Territory health care providers to deliver health care to people receiving aged care, similar to the Applied Principles and 'tables of supports' for the National Disability Insurance Scheme, on the basis that, among other things:

- a. allied health care should generally be provided by aged care providers
- b. specialist services, including specialist palliative care and subacute rehabilitation, should be provided by State and Territory health care providers, even if these services involve allied health practitioners
- c. less complex health conditions should be managed by aged care providers' staff, particularly nurses.

75.2. By 31 December 2021, the Australian Government should amend the *Quality of Care Principles 2014* (Cth) to clarify the role and responsibilities of approved providers to deliver health care to people receiving aged care, including but not limited to their particular role and responsibilities to deliver allied health care, mental health care, and oral and dental health care.

**Recommendation 76: Improved access to State and Territory health services by people receiving aged care**

76.1. By 1 July 2022, the Australian and State and Territory Governments should amend the National Health Reform Agreement or any future health funding agreement to include explicit commitments by State and Territory Governments to provide:

- a. access by people receiving aged care to State and Territory Government-funded health services, including palliative care services, on the basis of the same eligibility criteria that apply to residents of the relevant State and Territory more generally
- b. clinically appropriate subacute rehabilitation for patients who:
  - i. are aged care recipients receiving residential care or personal care at home, or
  - ii. may need such aged care services if they do not receive rehabilitation,

as well as performance targets and reporting requirements on the provision of subacute rehabilitation care to people receiving aged care.



**Recommendation 77: Ongoing consideration by the Health National Cabinet Reform Committee**

77.1. The Health National Cabinet Reform Committee should require the Australian Health Ministers' Advisory Council to:

- a. consider the full suite of the Royal Commission's recommendations related to the interface of the health care and aged care systems and report to the next meeting of the Committee
- b. include a standing item in all future meetings of the Council on the aged care system and its interface with the health care system.

**PART 3.14 AGED CARE IN REGIONAL, RURAL AND REMOTE AREAS**

**Recommendation 78: Planning for the provision of aged care in regional, rural and remote areas**

78.1. From 1 December 2021, the Australian Government should:

- a. identify areas where service supply is inadequate and actively respond by supplementing services to meet entitlements and needs, and
- b. plan for the specific needs of different locations and develop aged care service provision based on those identified needs

and by doing so ensure that older people in regional, rural and remote locations are able to access aged care in their community equitably with other older Australians.

78.2. From 1 December 2021, the Australian Government should make it clear when people first engage with the aged care system if they will not be able to access a certain type of aged care in their community.

78.3. On and from 1 July 2023, the Australian Aged Care Commission will assume these functions and powers.

### **Recommendation 79: The Multi-Purpose Services Program**

79.1. The Australian Government (and, from 1 July 2023, the Australian Aged Care Commission) should maintain and extend the Multi-Purpose Services Program in the new aged care system by, from 1 December 2021:

- a. together with State and Territory Governments, establishing new Multi-Purpose Services in accordance with community need as identified by the Australian Government or the Commission
- b. ensuring that people entering Multi-Purpose Services are subject to the same eligibility and needs assessments as all other people receiving aged care
- c. requiring people accessing Multi-Purpose Services to make contributions to the cost of their care and accommodation on the same basis as all other people receiving aged care (with appropriate protections for people currently accessing Multi-Purpose Services)
- d. permitting Multi-Purpose Service providers to access all aged care funding programs on the same basis as other aged care providers
- e. developing a funding model for Multi-Purpose Services which reflects the changing number and acuity of people receiving care over time while maintaining certainty of funding over the course of a financial year
- f. together with State and Territory Governments, establishing a cost-shared capital grants program to rebuild or refurbish older Multi-Purpose Services to ensure that the infrastructure meets contemporary aged care design standards, particularly to support the care of people living with dementia.

## PART 3.15 FUNDING IN THE NEW AGED CARE SYSTEM

### **Recommendation 80: Amendments to residential aged care indexation arrangements**

- 80.1. Commencing with effect on 1 July 2021, the Australian Government should amend the indexation arrangements for residential aged care so that all care subsidies, and the viability supplement, are increased on 1 July each year by the weighted average of:
- a. 45% of the yearly (to the 30 June immediately preceding the indexation date) percentage increase to minimum wage for an Aged Care employee Level 3 under the Aged Care Award 2010 (section 14.1)
  - b. 30% of the yearly (to the 30 June immediately preceding the indexation date) percentage increase to the minimum wage for a registered Nurse Level 2 – pay point 1 under the Nurses Award 2010 (section 14.3)
  - c. 25% of the yearly percentage (to the 30 March immediately preceding the indexation date) increase to the Australian Bureau of Statistics Consumer Price Index.
- 80.2. The increases based on these arrangements should apply to the financial year commencing 1 July 2021 and continue until such time as the Aged Care Pricing Authority is established and has commenced independent determination of prices for residential care.

### **Recommendation 81: Amendments to aged care in the home indexation arrangements**

- 81.1. Commencing with effect on 1 July 2021, the Australian Government should amend the indexation arrangements for home care so that subsidy rates are increased on 1 July each year by the weighted average of:
- a. 60% of the yearly (to the 30 June immediately preceding the indexation date) percentage increase to minimum wage for an Aged Care employee Level 3 under the Aged Care Award 2010 (section 14.1)

- b. 15% of the yearly (to the 30 June immediately preceding the indexation date) percentage increase to the minimum wage for a registered Nurse Level 2 – pay point 1 under the Nurses Award 2010 (section 14.3)
- c. 25% of the yearly percentage (to the 30 March immediately preceding the indexation date) increase to the Australian Bureau of Statistics Consumer Price Index.

81.2. The increases based on these arrangements should apply to the financial year commencing 1 July 2021 and continue until such time as the Aged Care Pricing Authority is established and has commenced independent determination of prices for aged care in the home.

### **Recommendation 82: Immediate changes to the Basic Daily Fee**

82.1. The Australian Government should, no later than 1 July 2021, offer to provide funding to each approved provider of residential aged care adding to the base amount for the Basic Daily Fee by \$10 per resident per day, for all residents. The additional funding should be only provided on the condition that the provider gives the Australian Government a written undertaking that:

- a. it will conduct an annual review of the adequacy of the goods and services it has provided to meet the basic living needs of residents, and in particular their nutritional requirements, throughout the preceding 12 months, and prepare a written report of the review
- b. the review report will set out in detail the provider's expenditure to meet the basic needs of residents, especially their nutritional needs, and changes in expenditure compared with the preceding financial year
- c. by 31 December each year, commencing in 2021, the governing body of the provider will attest that the annual review has occurred, and will give the review report and a copy of the attestation, to the Australian Aged Care Commission (or, pending its establishment, the implementation unit referred to in Recommendation 123)
- d. in the event of failure to comply with the above requirements, the provider will be liable to repay the additional funding to the

Australian Government, and agrees that this debt may be set-off against any future funding as a means of repayment.

- 82.2. The Australian Government will commence payment of the additional funding to a provider within one month of the provider giving its written undertaking.
- 82.3. The results of any review may be taken into account in any reviews of the compliance of the provider with the Aged Care Quality Standards.

### **Recommendation 83: Amendments to the viability supplement**

- 83.1. With immediate effect, the Australian Government should continue the 30% increase in the viability supplement that commenced in March 2020, as paid in respect of each residential aged care service and person receiving home care, until the Aged Care Pricing Authority has determined new arrangements to cover the increased costs of service delivery in regional, rural and remote areas and has commence independent determination of prices.
- 83.2. For the avoidance of doubt, the increased indexation arrangements proposed in Recommendations 80 and 81 should apply in addition to the measure in this recommendation.

### **Recommendation 84: Immediate funding for education and training to improve the quality of care**

- 84.1. The Australian Government should establish a two-year scheme, commencing on 1 July 2021 to improve the quality of the current aged care workforce. The scheme should reimburse providers of home support, home care and residential aged care for the cost of education and training of the direct care workforce employed (either on a casual, part-time or full-time basis) at the time of its commencement or during the period of its operation. Eligible education and training should include:
  - a. Certificate III in Individual Support and Certificate IV in Ageing Support
  - b. continuing education and training courses (including components of training courses, such as 'skill sets' and 'micro-credentials') relevant to direct care skills, including, but not limited to, dementia

care, palliative care, oral health, mental health, pressure injuries and wound management.

- 84.2. Reimbursement should also include the costs of additional staffing hours required to enable an existing employee to attend the training or education. The scheme should be limited to one qualification or course per worker.

### **Recommendation 85: Functions and purposes of the Aged Care Pricing Authority**

- 85.1. Before the establishment of the Aged Care Pricing Authority, preliminary work on estimating the costs of providing high quality aged care should be undertaken by the implementation unit referred to in Recommendation 123.
- 85.2. Upon its establishment (by 1 July 2023) under the new Act, the Aged Care Pricing Authority should take over that work and all resources developed by the implementation unit.
- 85.3. The functions of the Aged Care Pricing Authority should include:
- a. providing expert advice to the Australian Aged Care Commission on optimal forms for funding arrangements for particular types of aged care services and in particular market circumstances
  - b. reviewing data and conducting studies relating to the costs of providing aged care services
  - c. determining prices for particular aged care services based on estimates of the amounts (whether constituted by government subsidies or user payments or both) appropriate to the provision of high quality and safe aged care services
  - d. evaluating, or assisting the Australian Aged Care Commission to evaluate, the extent of competition in particular areas and markets
  - e. advice on appropriate forms of economic regulation, and implementation of such regulation, where necessary.
- 85.4. In undertaking its functions, the Aged Care Pricing Authority should be guided by the following objects:

- a. ensuring the availability and continuity of high quality and safe aged care services for people in need of them
- b. ensuring the efficient and effective use of public funding and private user contributions in the provision of high quality and safe aged care services
- c. promoting efficient investment in the means of supply of high quality and safe aged care services in the long term interests of people in need of them
- d. promoting the development and retention of a highly motivated and appropriately skilled and numerous workforce necessary for the provision of high quality and safe aged care services in the long term interests of people in need of them.

**Recommendation 86: Requirement to participate in Aged Care Pricing Authority activities**

- 86.1. By 1 July 2022, the *Accountability Principles 2014* (Cth) should be amended to require participation by approved providers in cost data reviews.
- 86.2. By 1 July 2023, the new Act should require that as a condition of approval or continued approval, aged care providers are required to participate in any activities the Aged Care Pricing Authority requires to undertake its functions, including transmitting cost data in a format required by the Authority for the purposes of costing studies. The Aged Care Pricing Authority should take costs associated with these activities into account when determining funding levels.

**Recommendation 87: Services to be funded through a combination of block and activity based funding**

- 87.1. The Aged Care Pricing Authority should advise the Australian Aged Care Commission on the combination and form of block and activity based funding that should be adopted for social supports, respite, and assistive technology and home modifications, having regard to the characteristics of these services and market conditions where they are delivered.

**Recommendation 88: Casemix-adjusted activity based funding in residential aged care**

- 88.1. By 1 July 2022, the Australian Government should fund approved service providers for delivering residential aged care through a casemix classification system, such as the Australian National Aged Care Classification (AN-ACC) model. The classification system should take into account the above recommendations for high quality aged care. On-going evidence-based reviews should be conducted thereafter to refine the model iteratively, for the purpose of ensuring that the model accurate classification and funding to meet assessed needs.
- 88.2. The implementation date of 1 July 2022 is needed to support Recommendations 46.2 and 46.3. However, the independent pricing capability referred to in Recommendations 5 and 85 is unlikely to be developed by that time. Therefore an estimated National Weighted Average Unit (NWAU) for interim application of a casemix-adjusted funding model such as AN-ACC should be calculated by or on behalf of the implementation unit and applied to fund approved providers of residential care prior to the commencement of independent pricing by the Aged Care Pricing Authority.

**Recommendation 89: Maximum funding amounts for care at home**

- 89.1. With effect from 1 July 2024, the Australian Government should ensure that the maximum Commonwealth funding amount available for a person receiving care at home is the same as the maximum Commonwealth funding amount that would be made available to provide care for them if they were assessed for care a residential aged care service.

**Recommendation 90: Framework for the assessment of funding to incentivise an enablement approach to residential care**

- 90.1. From 1 July 2022, the following enablement incentives should be incorporated into the rules, principles and guidelines for assessment and funding eligibility:



- a. where reassessment determines that a person is entitled to a higher level of funding, and the approved provider can demonstrate that they have been providing the higher level of care then it should be eligible for back-payment to the date that the reassessment was requested
- b. in order to promote an enablement approach in care at a residential aged care home, a resident should not be required to be reassessed if their condition improves under the care of a provider.

#### **Recommendation 91: Reporting of staffing hours**

91.1. From 1 July 2022, the *Accountability Principles 2014* (Cth) should be amended to require any approved providers of residential aged care to provide reports, on a quarterly basis in standard form reports, setting out total direct care staffing hours provided each day at each facility they conduct, broken into different employment categories (including personal care workers, enrolled nurses engaged in direct care provision, registered nurses engaged in direct care provision, and allied healthcare professionals engaged in direct care provision).

#### **Recommendation 92: Payment on accruals basis for care at home**

92.1. By 1 September 2021, home care providers should commence invoicing and receipt of payments from the Australian Government out of their clients' home care packages on an accruals basis, only once services have been delivered or the liability to deliver them has been incurred.

#### **Recommendation 93: Standardised statements on services delivered and costs in home care**

93.1. The Australian Government should develop and implement a standardised statement format for home care providers to record services delivered and costs incurred on behalf of home care package holders. From 1 July 2022, providers should be required to issue completed statements in the standardised format to people receiving their care on a monthly basis.

**Recommendation 94: Fees for social supports, assistive technology and home modifications**

- 94.1. Individuals receiving social supports, assistive technology and home modifications should be required to make nominal co-payments for the services that they receive.
- 94.2. The levels of these notional co-payments should be set in the new Act.

**Recommendation 95: Fees for respite care**

- 95.1. Individuals receiving respite care should be required to contribute to the costs of the services that they receive associated with ordinary costs of living and additional services. They should not be required to contribute to the costs of the accommodation and care services that they receive.
- 95.2. The level of any payment for the ordinary costs of living should be determined from time to time by the Australian Aged Care Pricing Authority.

**Recommendation 96: Fees for care at home**

- 96.1. Individuals receiving care at home should not be required to contribute to the costs of any care services that they receive. They should, however, be required to make nominal co-payments for any domestic assistance services that they receive.
- 96.2. The levels of these notional co-payments should be set in the new Act.

**Recommendation 97: Fees for residential aged care – ordinary costs of living**

- 97.1. From 1 July 2023, the amount that providers should be paid for services that are associated with ordinary costs of living should be determined by the Aged Care Pricing Authority. Funding for this amount should be provided by:
- a. a basic fee paid by the resident equal to 85% of the maximum amount of the basic age pension
  - b. a means tested fee paid by the resident

- c. a subsidy paid by the Australian Government to make up any gap.

97.2. The means tested fee should have the following features:

- a. it should be zero for anyone in receipt of the full pension
- b. it should be recalibrated to achieve progressively greater contributions from people who have greater levels of assets and income without imposing hardship, or arbitrary outcomes on people in certain asset or income brackets
- c. non-pensioners should be required to pay the full costs of ordinary living (without any contribution by the Australian Government).

**Recommendation 98: Repeal co-contributions for care component of funding in residential care**

98.1. From 1 July 2023, the means tested daily care fee for care provided in residential care facilities should be repealed.

**Recommendation 99: Reform of means testing for accommodation charges**

99.1. From 1 July 2023, the maximum amount that the Australian Government will pay for a person's accommodation costs in residential aged care should be determined by the Aged Care Pricing Authority.

99.2. The amount payable in respect of any individual should be determined by a means test that is calibrated to achieve progressively greater contributions from people who have greater levels of assets and income without imposing hardship, or arbitrary outcomes on people in certain asset or income brackets.

99.3. Where a resident is eligible under this means test for some Australian Government assistance with their accommodation costs then the fee that they can be charged is capped at the amount worked out by the means test.

99.4. Where a resident is not eligible for any Australian Government assistance with their accommodation costs then the fee that they can be charged should be not be price-capped, but should remain subject to a provisional upper limit (to be set by the Aged Care Pricing Authority from time to

time) that may be raised upon application by the approved provider to the Authority.

## PART 3.16 PRUDENTIAL REGULATION AND FINANCIAL OVERSIGHT

### **Recommendation 100: Prudential regulation by the Australian Aged Care Commission**

- 100.1. From 1 July 2023, the Australian Aged Care Commission should be given the statutory role as the prudential regulator for aged care with responsibility for ensuring that, under all reasonable circumstances, providers of aged care have the ongoing financial capacity to deliver high quality care and meet their obligations to repay accommodation lump sums as and when the need arises.
- 100.2. The Commission should also be given the statutory role of developing and implementing an effective financial reporting framework for the aged care sector that complements the purposes of the prudential standards.
- 100.3. The Presiding Commissioner shall allocate the responsibilities associated with prudential oversight and the establishment of an effective financial reporting framework to an Assistant Commissioner.

### **Recommendation 101: Establishment of prudential standards**

- 101.1. From 1 July 2023, the Australian Aged Care Commission should be empowered to make and enforce standards relating to prudential matters that must be complied with by approved providers.
- 101.2. In this context prudential matters are matters relating to:
- a. the conduct of the affairs of approved providers in such a way as to:
    - i. ensure that providers remain in a sound financial position, or
    - ii. ensure continuity of care in the aged care system, or
  - b. the conduct of the affairs of approved providers with integrity, prudence and professional skill.

**Recommendation 102: Liquidity requirements**

102.1. From 1 July 2023, the Australian Aged Care Commission should be empowered under statute to impose liquidity requirements on approved providers of residential aged care which hold refundable accommodation deposits, for the purpose of ensuring that such providers are able to repay refundable accommodation deposits promptly as and when required without jeopardising their financial viability.

**Recommendation 103: Capital adequacy requirements**

103.1. From 1 July 2023, the Australian Aged Care Commission should be empowered under statute to impose capital adequacy requirements on approved providers for the purpose of ensuring that providers maintain adequate net assets above the liabilities they owe.

**Recommendation 104: More stringent financial reporting requirements**

104.1. From 1 July 2023, the Australian Aged Care Commission should be empowered under statute to require approved providers to submit regular financial reports.

104.2. The frequency and form of the reports should be prescribed by the Commission.

**Recommendation 105: Continuous disclosure requirements in relation to prudential reporting**

105.1. From 1 July 2023, approved providers should be required under statute to comply with continuous disclosure requirements, under which an approved provider that becomes aware of material information that:

- a. affects the provider's ability to pay its debts as and when they become due and payable, or
- b. affects the ability of the provider or any contractor providing services on its behalf to continue to provide aged care that is safe

and of high quality to individuals to whom it is currently contracted or otherwise engaged to provide aged care

must immediately disclose the information to the Commission.

105.2. The Australian Aged Care Commission should have the power to designate events, facts or circumstances that should give rise to continuous disclosure obligations.

**Recommendation 106: Tools for enforcing the prudential standards and guidelines and financial reporting obligations of providers**

106.1. From 1 July 2023, the Australian Aged Care Commission should have the power to impose a range of regulatory responses where there has been a breach of the new prudential standards or the financial reporting requirements, including a failure to comply with the continuous disclosure requirements.

106.2. Such responses should include:

- a. the power to give directions to a provider that mirror those that can be made by the Australian Prudential Regulatory Authority pursuant to the *Private Health Insurance (Prudential Supervision) Act 2015* (Cth)
- b. the power to impose civil and administrative penalties in respect of any breach
- c. the ability to accept enforceable undertakings
- d. the ability to impose sanctions to limit the ability of the provider to expand its services, revoke accreditation for a service, or revoke approved provider status.

**Recommendation 107: Building the capability of the regulator**

107.1. In establishing the Australian Aged Care Commission, the Australian Government should ensure that its prudential capability in relation to the aged care sector includes the following:

- a. an effective program to recruit and retain senior forensic accountants and specialists with prudential regulatory experience,

and sufficient numbers of supporting employees who have either accounting qualifications or other financial skills

- b. systems and processes to capture, collate, analyse and share regulatory intelligence from internal and external sources to build a risk profile of approved providers
- c. a system and processes to monitor indicators of risk revealed by providers' financial reporting tailored to the aged care sector and to respond to them in a timely manner
- d. an electronic forms and lodgement platform for the use of all large operators, with an optional alternate electronic filing system available for smaller operators
- e. appropriate resourcing of the above system and processes, including design expertise, Information Communications Technology requirements, technical support, and recruitment and training of sufficient numbers of appropriately skilled staff.

#### **Recommendation 108: Requirement to report on outsourcing of care management**

108.1. From 1 July 2022, the *Accountability Principles 2014* (Cth) should be amended to require that aged care providers approved to provide residential care or personal care services at home notify the Australian Aged Care Commission of any proposed sub-contracting of general management of care before the arrangement takes effect.

### **PART 3.17 EFFECTIVE REGULATION**

#### **Recommendation 109: Civil penalty for certain contraventions of the general duty**

109.1. The new Act should provide that:

- a. on application by the Australian Aged Care Commission to a court of competent jurisdiction, the following is a contravention of the Act attracting a civil penalty:

- i. a breach by an approved provider of the general duty to provide high quality and safe aged care so far as reasonable (see Recommendation 22), and
  - ii. where the breach gives rise to harm, or the risk of harm, to a person whom the provider is providing care or engaged under a contract or understanding to provide care; and
  - iii. where a failure to provide 'high quality' care is taken to occur if and only if the approved provider has failed to comply with one or more of the Aged Care Quality Standards
- b. the contravention attracts a civil penalty, and attracts accessorial liability for directors, key personnel and any other person who:
  - i. aids, abets, counsels or procures the approved provider to commit the contravention
  - ii. induces the approved provider to commit the contravention
  - iii. is in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by the approved provider
 (who should be defined as a person 'involved in the contravention').

**Recommendation 110: Private right of compensation for certain contraventions of the general duty**

110.1. The new Act should provide:

- a. that an order may be made on the application of the Australian Aged Care Commission to a court of competent jurisdiction that an approved provider that has contravened the civil penalty provision (referred to in Recommendation 109), or a person involved in the contravention, pay damages for any loss and damage suffered by a person as a result of the contravention, and
- b. for a private right of action for damages in a court of competent jurisdiction by or on behalf of a person who has suffered loss and damage as a result of any such contravention, in which proceeding any findings or admissions of the contravention in another proceeding may be adduced in evidence as proof that the contravention occurred.



### **Recommendation 111: A wider range of enforcement powers**

111.1. The new Act should confer on the quality regulator:

- a. a wider range of enforcement powers, including enforceable undertakings, infringement notices and banning orders
- b. the power to impose a sanction suspending or removing the group of people responsible for the executive decisions of a provider and appoint an external administrator of the provider, or manager of specified assets or undertakings of the provider
- c. the power to impose a sanction to be applied to a non-compliant provider revoking the provider's approval unless the provider agrees to the appointment of an external administrator or manager.

### **Recommendation 112: Strengthened powers for the quality regulator to undertake investigations and inquiries**

112.1. From 31 December 2021, the *Aged Care Quality and Safety Commission Act 2018* (Cth) should be amended to confer on the Aged Care Quality and Safety Commissioner the following additional statutory functions and powers, to be exercised in connection with, or for the purposes of, its functions conferred by that Act:

- a. the function of conducting inquiries, including into complaints (see Recommendation 114) or reported serious incidents (see Recommendation 118)
- b. a power to enter and search the premises of residential aged care facilities and other non-residential aged care workplaces without warrant or consent
- c. a power to compel the production of documents and information relevant to the performance of its functions
- d. a power to compel by notice an officer, employee or person acting on behalf of an approved provider to appear before an officer authorised by the quality regulator for examination.

112.2. The new Act should confer on the Australian Aged Care Commission responsibility for general administration of the Act. The new Act should

authorise the Commission to conduct inquiries and exercise any of its powers for the purpose of the general administration of the Act.

112.3. For the avoidance of doubt, these powers should also be available to Aged Care Quality and Safety Commission and subsequently the Australian Aged Care Commission for the purposes of their prudential regulatory and financial risk monitoring functions.

**Recommendation 113: Greater weight to be attached to consumer experience**

113.1. From 1 July 2021 onwards, the quality regulator, whether it be the Aged Care Quality and Safety Commissioner or the Australian Aged Care Commission, should:

- a. ensure that consumer experience reports for a service are informed by consumer experience interviews with at least 20% of care recipients or services users (or their families)
- b. take consumer experience reports into account in accreditation, assessment and compliance monitoring processes
- c. publish consumer experience reports for each aged care service, informed by consumer experience interviews
- d. establish channels (including an on-line mechanism) to allow aged care recipients and their families to report their experiences of aged care and the performance of aged care providers, all year round.

### **Recommendation 114: Improved complaints management**

114.1. The new Act should provide that at all times one or more of the Assistant Commissioners of the Australian Aged Care Commission ('Complaints Commissioner') be designated to exercise and perform:

- a. the functions of:
  - i. complaints handling
  - ii. complaints referral and coordination
  - iii. promoting open disclosure and publishing information about complaints
  - iv. consideration and determination of requests to maintain confidentiality of the identity of complainants
- b. in relation to these functions, powers to:
  - i. apply enforceable undertakings, whereby the provider agrees to take certain steps or actions
  - ii. issue directions to providers
  - iii. refer complaints to a more appropriate complaints body or regulator, and to obtain information on the action taken, if any, by that complaints body or regulator
- c. before deciding to close a complaint or continue an investigation, a duty to advise complainants of the proposed outcome of complaints, and seek their views on:
  - i. the way the process has been handled by the Commission
  - ii. the provider's response to the process
  - iii. the proposed outcome of the process
- d. a duty to publish reports at least every six months on:
  - i. the number of complaints received
  - ii. the subject matter of complaints by general topic
  - iii. the number of complaints by provider and service
  - iv. the outcomes of complaints
  - v. the average time for conclusion of complaints

- vi. satisfaction with the outcomes of the complaints handling process.

114.2. The new Act should provide that complaints are to be made to the Australian Aged Care Commission at first instance. If a complainant is not satisfied with the Commission's handling of a complaint or the outcome, the complainant may refer the matter to the Inspector-General. The Commission should refer to the Inspector-General any complaints about the Commission itself, its performance of its functions and exercise of its powers.

114.3. The new Act should also set out the role of advocates in the complaints processes of the Commission and the Inspector-General.

#### **Recommendation 115: Protection for whistle-blowers**

115.1. The new Act should contain comprehensive whistle-blower protections for:

- a. people receiving aged care, their family, carer, independent advocate or significant other
- b. an employee, officer, contractor, or member of the governing body of an approved provider

who makes complaints or reports suspected breaches of quality and safety standards or other requirements of the Act.

#### **Recommendation 116: Graded assessments and performance ratings**

116.1. From 1 July 2021, the Aged Care Quality and Safety Commissioner should adopt a graded assessment of service performance against the Aged Care Quality Standards.

116.2. The Australian Aged Care Commission should continue to use graded assessment from 1 July 2023 onwards.

**Recommendation 117: Star ratings: performance information for people seeking care**

- 117.1. By 1 July 2022, the Australian Government should develop and publish a system of star ratings based on objective and measurable indicators that allow older people and their families to make meaningful comparisons of the quality and safety performance of providers. The star ratings and accompanying material should be published on My Aged Care.
- 117.2. The star ratings should incorporate a range of measurable data and information including, at a minimum:
- a. graded assessment of service performance against standards
  - b. performance against relevant clinical and quality indicators
  - c. staffing levels
  - d. robust consumer experience data, when available.
- 117.3. The overall star rating should be accompanied by appropriate additional information on performance and outcomes, in a readily understandable form and capable of comparison across providers. This should include all performance information that is relevant to the performance of a service provider, even if it is not reflected in the overall star rating outcome. For example, it should include:
- a. details about current and previous assessment by the quality regulator, whether it be the Aged Care Quality and Safety Commissioner or the Australian Aged Care Commission, including notices of non-compliance, sanctions, withdrawal of accreditation or approved provider status
  - b. benchmarked performance for all quality indicators that are suitable for publication, including changes in performance over time
  - c. consumer experience information
  - d. serious incident reports data
  - e. complaints data.
- 117.4. The Australian Aged Care Commission should assume responsibility for the star ratings system from 1 July 2023 onwards.

### **Recommendation 118: Serious incident reporting**

118.1. The Australian Government should, in developing a new and expanded serious incident reporting scheme:

- a. ensure that the new scheme:
  - i. includes all serious incidents, including in home care, regardless of whether the alleged perpetrator has a cognitive or mental impairment
  - ii. supports the matching of names of individuals accused of being involved in a serious incident with previous serious incident reports
- b. require the quality regulator to publish the number of serious incident reports on a quarterly basis at a global level, at a provider level, and at a service or facility level
- c. confer a statutory power on the quality regulator to:
  - i. requisition a plan of responsive action from a provider who has reported a serious incident
  - ii. obtain evidence from the provider to satisfy itself that the responsive action has been taken and is effective
  - iii. satisfy itself as to whether or not the responsive action has been taken and is effective
  - iv. require the provider to take further or additional steps, in circumstances where the quality regulator is not satisfied with the effectiveness of the responsive action.

### **Recommendation 119: Responding to coroner's reports**

119.1. The new Act should provide that the Australian Aged Care Commission is required to:

- a. maintain a publicly available register of reports made to the Australian Aged Care Commission or other Commonwealth entity by a State or Territory coroner that involve the death of a person in aged care

- b. publish a response to the report on the publicly available register within three months of its receipt
- c. provide annual reports to the Inspector-General of Aged Care detailing any action taken in response to coroner's reports, and assessment of the impact of such action.

### **Recommendation 120: Approval of providers**

- 120.1. The new Act should provide for the commencement by 1 July 2024 of new approval requirements for all aged care providers to ensure their suitability, viability and capability to deliver the kinds of services for which they receive subsidies.
- 120.2. Applicants for approval as a provider or existing approved providers may seek approval from the Australian Aged Care Commission to provide particular kinds of aged care services, or general approval to provide all kinds of aged care services attracting Australian Government funding.
- 120.3. A current approved provider should be taken to be approved to provide the kinds of services they have been regularly providing from the commencement of 12 months prior to the commencement of the new Act (or since their approval, whichever is more recent), and there should be an administrative process to record all such approved providers' scopes of approval.

### **Recommendation 121: Requirement of continuing suitability for approval**

- 121.1. The new Act should provide that approvals are ongoing but subject to continuing suitability, including (in addition to the matters referred to in sections 63D and 63J of the *Aged Care Quality and Safety Commission Act 2018* (Cth)), the fitness and propriety of the provider and its key personnel, the provider's capacity to deliver high quality and safe services within its scope of approval, and the provider's performance in delivering high quality and safe services of the kinds for which they are approved.
- 121.2. In cases where the Australian Aged Care Commission becomes aware the approved provider may no longer be suitable to remain a provider or

to retain its current scope of services for which it is approved, the Commission must consider on notice to the provider whether to revoke the provider's approval or limit its scope of approval.

**Recommendation 122: Aged Care Quality and Safety Commission capability review**

122.1. The Australian Government should urgently conduct a review of the capabilities of the Aged Care Quality and Safety Commission, including its assessor workforce, and should take any necessary steps to enhance the Aged Care Quality and Safety Commission's capabilities in light of the outcome of the review.

**PART 3.18 TRANSITION AND IMPLEMENTATION**

**Recommendation 123: An implementation unit**

123.1. Pending the establishment under the new Act of the Australian Aged Care Commission, an administrative unit or body should forthwith be established by the Australian Government (through the Australian Department of Prime Minister and Cabinet) and properly staffed and resourced to implement and direct implementation of the Royal Commission's recommendations (**implementation unit**).

123.2. Pending the establishment of the office of the Inspector-General of Aged Care under the new Act, an officer should be appointed to the role of Inspector-General under temporary administrative arrangements. That officer should monitor the implementation of recommendations and should report to the responsible Minister and to the Parliament at least every six months on the implementation of the recommendations.

123.3. From the commencement of the new Act, the Australian Aged Care Commission should implement and direct implementation of the recommendations of the Royal Commission. The Inspector-General of Aged Care should continue to monitor and report on the implementation of recommendations, in accordance with the requirements of that Act.



**Recommendation 124: Evaluation of effectiveness**

124.1. The Inspector-General of Aged Care should undertake independent evaluations of the effectiveness of the measures and actions taken in response to the recommendations of the Royal Commission, five and ten years after the tabling of the Final Report.