

ACSA’s Analysis of the Royal Commission Final Report Recommendations

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Overview

This week the Royal Commission into Aged Care Quality and Safety released its Final Report titled [*Care, Dignity and Respect*](#) (the Report¹).

The Report is seen as both a 'critical watershed moment' and a 'once in a generation opportunity'. Significant structural and funding reform by Government must now occur.

CEO Patricia Sparrow has stated that *'the standard of reform required has been set by the Royal Commission and providers stand ready to play their part and it is now over to the Australian Government to drive the significant reforms that will set up Australia for our ageing population and guarantee older Australians the respect they deserve.'*

There are three critical/standout findings that must be addressed:

1. Much of what the report requires and comments on is the underfunding of the sector over a long period. Addressing this is critical and fundamental to many of the proposed reforms – employing more staff, paying them better, more home care packages, increased funding for residential care. We know we spend significantly less on aged care as a percentage of GDP (around 1.2 per cent) versus the OECD average of 2.5 per cent.
2. The older person must be at the centre of reforms - from human rights-based legislation, employing more staff and supporting more to live in their own homes.
3. The Royal Commission has highlighted significant failures in care resulting in harm to older Australians. While they are multifactorial they are also unacceptable and as a sector we must do all we can to ensure they are not repeated.

We welcomed the Government's initial commitment of \$452 million as a starting point for reform but the most important thing now is a complete overhaul, not just more top-ups in order to guarantee respect for older Australians for future generations.

Unusually, the report contains recommendations that are agreed by both Commissioners, as well as recommendations made by individual Commissioners, which offer alternate proposals on key issues. It is disappointing some Royal Commission recommendations were not unanimous, but is by no means an excuse to delay major aged care reform.

There is no split on the need for a total overhaul that means providers are resourced to employ more staff and deliver more care and support. This cannot be used as an excuse to not progress major reforms. We know what the big problems are - we now need the big solutions to be implemented.

¹ Royal Commission into Aged Care Quality and Safety, Final Report: Care, Dignity and Respect Volume 1 Summary and recommendations, 2021

Key Proposals

- ACSA has identified a number of key themes emerging from the report. **The older person must be at the centre of reform**, with reforms being viewed through a ‘human rights’ lens, independence and self-determination are paramount.
- **System governance** – structural reform is required, including legislative responses i.e., a new human rights-based Act.
- Access based on **assessed need**, not rationed.
- Significant **additional funding** is required to ensure the delivery of quality and safe care.
- **Workforce** challenges must be addressed as part of the reform agenda, including training and remuneration.
- The National Prioritisation wait list for **Home Care Packages** must be cleared by 31 December 2021.
- **Residential care viability and sustainability** must be addressed, with services funded to deliver quality and safe care.
- **Transparency, comparability and disclosure** matters need to be addressed.
- The **interface between the aged care and health systems** requires attention.

Final Report Summary

ACSA has summarized the final Royal Commission report to assist you in understanding what has been recommended and the key issues raised.

This summary is not comprehensive of all recommendations contained within the Report. To review all recommendations the Report ([Volume 1](#)) should be read in its totality. A full list of recommendations can be found [here](#).

Reference to ‘Government’ should be read as a reference to the Australian Government.

Foundations of the New Aged Care System

A New Aged Care Act

Widely supported are recommendations for a new rights-based Aged Care Act to promote outcomes that are consistent with a human rights approach, providing protections for older people who need aged care and a framework to guide decision making.

- **R1: A new Act** – proposes a new Act to replace the Aged Care Act 1997 to be in place by 1 July 2023, *‘based on a universal right to high quality, safe and timely support and care’*.
- **R2: Rights of older people receiving aged care** – specifies the rights of older people receiving aged care to be included in the legislation including people seeking care, people receiving care, people receiving end-of-life care, and people providing informal care.
- **R3: Key principles** – identifies 14 key principles for administering the new Act making paramount the concept of *‘putting older people first so that their preferences and needs drive the delivery of care’* as well as their safety, health and wellbeing.
- **R4: Integrated long-term support and care for older people** – Government to coordinate development of a vision for integrated long-term support and care for older people, recommending governments, via a National Cabinet Reform Committee on Ageing and Older Australians, should develop *‘an integrated system for the long-term support and care of older people’* across needs such as welfare, housing, health care and aged care to be implemented within a ten-year period.

System Governance

Each Commissioner put forward individual views on **structural reform** for government to deliver on the new framework.

1. **Commissioner Pagone** – recommended a structure independent of government including an Aged Care Commission (R5) comprised of various commissioners with responsibility for the system, quality, complaints, workforce and Aboriginal and Torres Strait Islander matters. He also recommended an Aged Care Pricing Authority (R6) and an Aged Care Advisory Council (R7) reporting to the Minister comprised of ‘people of eminence, expertise and knowledge’ from all areas of the aged care system including approved providers. Commissioner Pagone recommended an Implementation Unit (R146) of the Australian Government, through Department of Prime Minister and Cabinet to implement the recommendations of the Royal Commission.
2. **Commissioner Briggs** – recommended a structure within government including a senior Cabinet Minister and a renamed Department of Health and Aged Care (R8) having *‘day to day’* responsibility for aged care including stewardship of the aged care system such as building providers capacity and where necessary managing the exist of poor performers. She also recommended the abolition of the Aged Care Quality and Safety Commission to be replaced by an Aged Care Quality and Safety Authority (R10) to approve and accredit providers and manage compliance matters. She recommended an Independent Hospital and Aged Care Pricing Authority (R11) and a Council of Elders (R9) being a high-level older people’s advisory body to advise the Minister and Department. Commissioner Briggs also recommended an Implementation Taskforce (R147) to implement and direct implementation of the recommendations.

3. **Joint recommendation** – both Commissioners supported an additional layer of structural governance being an Inspector-General of Aged Care (R12) to investigate, monitor and report on the aged care system as a whole, including evaluation of effectiveness of measures and actions taken (R148).

The Commissioners are agreed that the principles of independence and transparency are best applied to the system – independent price setting through an Authority, independent system oversight through the Inspector-General, and greater independence in standard-setting.

They also recommended Government report to Parliament on their responses to the recommendations **by Monday 31 May 2021** (R145).

Knowledge, awareness and navigation of the aged care system was also a focus for the Commissioners.

- **R26: Improved public awareness of aged care** – the System Governor to address improved public awareness of aged care including encouraging public discussion about aged care needs.
- **R27: More accessible and useable information on aged care** – Commissioner Briggs suggested two additional measures including more accessible and useable information on aged care, enhancing My Aged Care to also include a provider search function as well as care finders to support navigation of aged care (R29) funded by the Australian Government to assist older people seek information and undertake case management services.

Diversity in the aged care system was also specifically addressed at Recommendation 30 to design an aged care program for diversity, difference, complexity and individuality including reporting to the Inspector General and the public by December 2024 on the extent to which needs of diverse older people are being met by the aged care system and required steps.

ACSA comments on the new aged care system

These recommendations are transformative. If implemented in full, and supported by additional funding, they will go a long way towards meeting our community's expectations for how older Australians live and are supported in the twenty-first century. ACSA supports the recommendations relating to a new Act and the Inspector-General of Aged Care.

Whilst there is divergence in views between the Commissioners on how structural reform is achieved (either through an independent body (Commissioner Pagone) or through a 'government leadership' model (Commissioner Briggs)) there is agreement that fundamental reform is needed. ACSA is still considering the merits of these recommendations.

We cannot wait for new structures to be put in place, or for significant reform to be undertaken of current structures before urgently needed reform measures such as additional funding or clearing the Home Care wait list are attended.

Together, government, providers, advocates, and society must ensure that there is no discrimination against older people accessing the aged care services they need when they need them, and that care is to a standard that protects human rights.

Transparent and sustainable funding

All agree funding is inadequate to deliver the care and services older Australians deserve and this is recognised in the Report. Funding must be immediately addressed by Government.

Interim adjustments to funding are required now until longer term funding reform is addressed. It is pleasing to see interim measures included across a number of the Report's recommendations:

- **R110: Amendments to residential aged care indexation arrangements** – from 1 July 2021 all care subsidies and the viability supplement to be increased on 1 July each year by weighted averages of various proportions of the yearly percentage increases of various classifications listed in the Aged Care Award 2010 and the Nurses Award 2010 and the Consumer Price Index.
- **R111: Amendments to aged care in the home and CHSP indexation arrangements** – from 1 July 2021 amend the indexation arrangements so that subsidy rates are increased on the 1 July each year by weighted averages of various proportions of the yearly percentage increases of various classifications listed in the Social, Community, Home care and Disability Services Award 2010 and the Consumer Price Index.
- **R112: Immediate change to the Basic Daily Fee** – from 1 July 2021 provide additional funding to the base amount by \$10 per resident per day, this comes with a caveat that providers be required to report annually on the *'adequacy of goods and services provided'*.
- **R113: Amendments to the viability supplement** – with immediate effect Government should continue the 30 per cent increase in the viability supplement as commenced in March 2020 and this be in place until a Pricing Authority is in place and functioning.

The indexation formula suggested in recommendations 110 and 111 above require further analysis to determine their adequacy.

ACSA fully supports addressing the completely inadequate indexation arrangements currently in place, including for the CHSP Program. We have advocated for indexation to be based on the Wage Price Index relevant to health services plus 1 per cent (to cater for enterprise bargaining). Indexation must match real world growth in costs. We support indexation being considered by an independent pricing function.

A new approach to indexation must be put in place from 1 July 2021.

Longer term structural funding reforms are addressed in the Report, importantly including:

- **Introduction of an aged care levy** – although their approaches differ, with Commissioner Pagone (R138) proposing the Productivity Commission be charged with exploring the potential benefits and risks of

adopting a hypothecated tax; and Commissioner Briggs (R144) proposing an aged care improvement levy (Medicare style levy) with a flat rate of 1 per cent of taxable personal income.

- **Introduction of a Pricing Authority** – with Commissioner Pagone (R6) recommending formation of an Aged Care Pricing Authority to determine price for specific aged care services, and Commissioner Briggs (R11) recommending expanding the Independent Hospital Pricing Authority to include aged care. The role and functions of a pricing authority and that of providers is outlined in recommendations 115 and 116.
- **Introduction of casemix funding in residential care** (R120) – by 1 July 2022 Government should introduce a casemix funding approach such as the AN-ACC model developed by the University of Wollongong.
- **Home care funding** is covered with suggestions for grant funding for low level services (R117); a new approach to funding (R118) that is either in the form of an individualised budget or a casemix approach; and maximum funding (R119) amounts for care at home ‘no more’ than what would be available in residential care.
- **Phasing out of Refundable Accommodation Deposits (RADs)** for new residents by 1 July 2025 has been proposed by Commissioner Briggs (R142), to be replaced by an ‘aged care accommodation capital facility’ which includes incentives to develop small household models of accommodation.
- **Means testing and contributions.** Commissioners Pagone and Briggs propose a range of measures that address resident / client contributions and means testing arrangements (recommendations 125 thru 129, 140, 141) that will require further analysis. They do highlight that the current means testing is inequitable, treating people with modest assets in the same way as those with very significant assets. The report calls for that to be addressed.

ACSA comments on funding

It is pleasing that the report has recommended some interim funding relief for the sector and we support those recommendations.

It is broadly understood and explicit in the report that a significant injection of additional resources is required to fund an improved aged care system in the long term. It is unfortunate that the Commissioners have not costed their proposed recommendations or how they arrived at the 1 per cent figure for a levy/tax. It has been reported that this figure represents around \$7.9B. Currently Australia spends about 1.2 per cent of GDP on aged care while the OECD average is 2.5 per cent. Independent costing is needed to be able to determine whether 1 per cent will suffice. In addition, the pricing of services also needs to occur to ensure that whatever amount is raised will cover the quality of care required.

ACSA could support the levy but is still considering the nuanced differences between hypothecated tax/levy models, and whether it will provide the significant injection needed to support implement of the proposed reform agenda.

ACSA supports the introduction of an independent pricing authority. In our final submission we suggested that using the infrastructure of the Hospital Pricing Authority with suitable aged care expertise would be preferable than creating another whole bureaucracy. Ultimately though, independent pricing is needed through either model. Introduction of independent cost review and subsequent price setting will be aided by the introduction of a casemix funding model in residential care and for this reason we support introduction of a new funding model.

Ultimately a casemix model could also be considered for the home care environment. As part of the planned transition to a new funding model in residential care, the Department of Health has commenced the shadow assessment program. Learnings from this trial must be shared with the sector, to enable providers to understand and plan for a change in funding model and its impact on them.

The pricing authority must be independent of Government with binding price determination, and the process must be regular and transparent. Availability of quality data to underpin cost review and subsequent price setting will need to be addressed.

The selection of RADs by incoming residents has been in decline over recent years and are now in the minority, with most people choosing either Daily Accommodation Payments (DAPs) or a combination. RADs have been a historical means of securing zero interest loans from residents to fund capital development. Commissioner Briggs (R142) recommends phasing out RADs by July 2025 for new residents. If we move to a new approach for residents to fund the cost of their accommodation (such as a rental model), consideration will need to be given to options which reflect the true cost of the accommodation on offer, and which allow for appropriate return on investment, this supporting ongoing investment into the sector.

Further and ongoing consideration of alternate accommodation models is required.

A number of recommendations (for example 125 thru 129, 140, 141) address user contributions and means testing. A key principle is that there should be no requirement to pay a co-contribution toward care, as distinct from the ordinary costs of living or accommodation costs. ACSA supports this principle, alongside that people with means should contribute to the cost of their accommodation and that there should be protections in place for those on a low income. We also support a consistent approach to means testing across an integrated aged care program.

ACSA supports increasing funding to allow people to age in place in the location of their choice, and in this context supports care in the home funding to have maximum funding equivalent to that received in residential aged care.

We all agree that funding must incentivise wellness and enablement.

The reporting of staffing hours (R122) on a quarterly basis may be a necessary trade-off for increased care funding from Government, and will additionally address 'transparency'. Providers must be able to determine the overall skills/qualifications mix of their staff depending on their care model. The number of minutes of care per day and the RN requirement will only be able to be addressed through additional funding, noting that there may still be supply issues for the number of RNs we will need.

The Aged Care Workforce

Workforce recommendations are addressed in Chapter 12 of the Report, including:

- **R51: Employment and training for Aboriginal and Torres Strait Islander Aged Care** – by 1 December 2022 Government should develop a comprehensive Aboriginal and Torres Strait Islander Aged Care Workforce Plan. In the interim, the Government should ensure, in consultation with the National Advisory Group for ATSI Aged Care, that the existing employment programs and initiative for ATSI's are aligned to the needs of the aged care sector.
- **R75: Aged care workforce planning** – by 1 January 2022 Government should establish an Aged Care Workforce Planning Division (ACWPD) within the Australian Department of Health. By 1 July 2022, the ACWPD should prepare an interim workforce strategy and planning framework for 2022-25.
- **R76: The Aged Care Workforce Industry Council Limited** – by 1 July 2021 the Council should extend an invitation to the Australian Government to be a member. The membership of the Council should be reviewed to ensure it is comprised of individuals, including worker representatives.
Commissioner Briggs (a-e) recommends a review of the qualifications and skills framework, creation of long-term career pathways, and review of award rates in aged care.
The Aged Care Workforce Industry Council should map career pathways for the aged care sector from 1 July 2022, including for nurses and personal care workers.
- **R77: National Registration Scheme** – by 1 July 2022 Government should establish a national worker registration scheme for the personal care workforce. Transitional arrangements, including recognition of prior learning and experience, for existing personal care workers who do not meet the minimum qualification is recommended.
Commissioner Briggs recommended the Australian Health Practitioner Regulation Agency should begin to examine the feasibility of a registration scheme under the National Registration and Accreditation Scheme for 'personal care worker'.
- **R78: Mandatory minimum qualifications for personal care workers** – the mandatory minimum qualification should be a Certificate III qualification required for personal care workers performing paid work in aged care.
Commissioner Briggs recommends if a Personal Care Worker National Board is established, that an accreditation authority be convened to develop and review accreditation standards for the mandatory minimum qualification, assess programs of study and education providers against the standards, and provide advice to the National Board on accreditation function.
- **R79: Review of certificate-based courses for aged care** – by January 2022, the Aged Care Services Industry Reference Committee, working with the Australian Government Human Services Skills Organisation, is to review the need for specialist aged care Certificate III and IV courses, and regularly review the contents of such courses to consider if any additional units of competency be included.
- **R80: Dementia and Palliative care training for workers** – by 1 July 2022, the Australian Government should implement as a condition of approval of aged care providers, that all workers engaged by providers who are involved in direct contact with people seeking or receiving services undertake regular training about dementia care and palliative care.
- **R81: Ongoing professional development of the aged care workforce** – from 1 July 2021, the Skills National Reform Committee, should fast-track the development by the Australian Industry and Skills Committee, of accredited, nationally recognised short course, skills set and micro-credentials, that are designed to improve opportunities for learning and professional development and upgrade the skills, knowledge, and capabilities of the existing workforce.

- **R82: Review of health professions' undergraduate curricula** – as part of the regular scheduled reviews of accreditation standards, the relevant accreditation authorities should review health professions' undergraduate curricula to ensure that care needs of older people are met.
- **R83: Funding for teaching aged care programs** – by 1 July 2023, the Australian Government should fund teaching aged care programs for delivery in both residential aged care and home care settings for designated catchment areas. These programs within a catchment area, should collaborate with educational institutions, research entities, facilitate clinical placements for both university and VET sector students, act as a hub for approved providers in a particular region and support training of aged care workers from surrounding aged care services.
- **R84: Increases in award wages** – An increase in award wages in accordance with section 158 and/or section 302 of the Fair Work Act 2009 (Cth).
- **R85: Improved remuneration for aged care workers** – should be taken into account by the Pricing Authority to deliver high quality and safe care, and to attract sufficient staff with the appropriate skills.
- **R86: Minimum staff time standard for residential care:**
 - 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 200 minutes per residents per day for the average resident, with at least 40 minutes of that staff time provided by a registered nurse. The minimum staff time standard, should require at least one registered nurse on site per residential age care facility for the morning and afternoon shifts (16 hours per day).
 - From 1 July 2024, the minimum staff time standard, should increase to require approved provider to engage registered nurses, enrolled nurses, and personal care workers, for the average residents for at least 215 minutes per resident per day for the average resident, with at least 44 minutes of that staff time provided by a registered nurse. **One registered nurse will be required on site per residential aged care facility at all times, from 1 July 2024.**
 - The minimum staff time standard, linked to the casemix-adjusted activity-based funding model for residential aged care facilities, with the expectation that facilities with high needs residents would be required to engage additional staff.
 - Aged care providers should be able to apply to the System Governor for an exemption (as outlined on page 264), which will be granted for a limited time with the details published on My Aged Care.
 - The Australian Commission on Safety and Quality in Health and Aged Care should review and update these standards, an align to case-mix classification for residential aged care facilities or at least every five years.
- **R87: Employment status and related labour standards as enforceable standards** (Commissioner Briggs) – by 1 January 2022, the Australian Government should require an ongoing condition of holding an approval to provide aged care services, that policies and procedures that preference direct employment of personal care and nursing services. Where services are contracted to another entity, that entity has policies and procedures that preference direct employment for workers for work performed under that contract.
 - From 1 January 2022, quality reviews conducted by the Quality Regulator must include assessing compliance with those policies and procedures and record the extend of use of independent contractors.

ACSA comments on workforce

This is a very comprehensive suite of recommendations designed to address workforce needs and challenges.

All agree that workforce capacity is of paramount concern, and measures to ameliorate the current shortages within the health care and aged care sectors must be addressed to support the proposed reform agenda.

ACSA supports the work of the Aged Care Workforce Industry Council to implement the Aged Care Workforce Strategy Taskforce's strategic actions.

Minimum skills and qualifications for personal care workers must be addressed and we support the introduction of a national registration scheme for these workers.

Our workforce must be valued and remunerated accordingly. Pay rates must reflect the value of the work performed.

Recommendation 86 prescribing minimum staff time requires further consideration and ongoing discussion between government and the sector. If staffing levels are to be prescribed, they must be appropriately funded.

What we know is that quality care must be quantified, and appropriately costed and funded, for the sector to be able to deliver quality care and services.

This recommendation also proposes that from 1 July 2024 *'one registered nurse will be required on site per residential aged care facility at all times.'* There will need to be sensible exemptions in place where this will not be achieved, for example in regional, rural and remote services.

Residential Care

Key residential care recommendations (or recommendations that impact residential care) noted:

- **R37: Residential care category** – proposition is for a residential care component within an integrated aged care system comprised of the former CHSP, Home Care Package and residential aged care programs.
- **R38: Residential aged care to include allied health care** – from July 2024 funding be provided to approved providers for the engagement of allied health professionals through a blended funded model.
- **R60: Establishing a Senior Dental Benefits Scheme** – that by January 2023 a new scheme is developed that will fund dental services for people who live in residential aged care.
- **R64: Increased access to medication management reviews** – that Government immediately improve access to quality medication management reviews including on admission.
- **R65: Restricted prescription of antipsychotics in residential care** – by November 2021 changes are made limiting the prescription of antipsychotics, with time limited use of these medications.
- **R70: Improved access to State and Territory health services** – proposes reforming the National Health Reform Agreement to include commitments by states/territories to provide access for people receiving aged care services to state/territory health services including access to subacute rehabilitation services.

ACSA comments on residential care

ACSA supports residential care being an integral component of an end-to-end aged care system, that allocates funding to the individual based on assessed need.

Allied health should be funded as a core component of a reformed system designed to address wellness and enablement.

Oral health directly impacts quality of life, with poor oral and dental health having a negative impact on health outcomes including nutritional status. We are fully supportive of older Australians having timely access to dental and oral health services.

We have argued for regular access to quality medication reviews for residents when they enter aged care and then as required. Medicine reviews must be conducted by qualified clinical pharmacists.

The use of antipsychotics must be well managed by prescribers. These are a class of drugs that can be legitimately used for a variety of conditions, but their use must be appropriate, time limited, regularly reviewed, used with appropriate consent, and used in a multidisciplinary approach. We support the appropriate use of these medicines; ACSA's position paper on this subject can be [found here](#). Issues to be addressed here though are access to the prescribing specialists in a timely way.

We have long argued for equity of access to state and territory health services for people receiving aged care, and we are therefore pleased to see this is addressed in recommendation 70.

Home Care

Key home care recommendations (or recommendations that impact home care) noted:

- **R39: Meeting preferences to age in place** – by 31 December 2021 Government should clear the Home Care Package waiting list (the National Prioritisation system) by immediately increasing the number of 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 their assessed level. The package allocated should be at the level the person was approved for. The waiting list should then be kept 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.
- **R35: Care at home category** - proposition is for a home care component within an integrated aged care system comprised of the former CHSP, Home Care Package and residential aged care programs, with supports for older people living at home to preserve and restore capacity.
- **R40: Transition to care at home** – Government should commence transition to the care at home category by ensuring from 1 July 2022 that any older person who is accessing the Home Care Packages Program can also access supports from the new respite or social support grant categories. These supports should not be paid for from home care package funds. This should also apply to the assistive technology and home modifications category.

- **R118: New funding model for care at home** – by 1 July 2024 Government should pay subsidies for service provision through a new funding model that takes the form of an individualised budget or casemix classification based on assessed need across care management, living supports and personal/clinical care.
- **R33: Social supports category** – from 1 July 2022 implement a social supports category within the aged care program that aims to reduce and prevent social isolation and is grant funded.
- **R34: Assistive technology and home modifications category** – from 1 July 2022 to implement an assistive technology and home modifications category providing goods, aids, equipment, and services that promote a level of independence.
- **R36: Care at home to include allied health** – from 1 July 2023 the System Governor should ensure care at home includes a level of allied health care appropriate to each person’s needs to restore their physical and mental health to the highest possible level.
- **R70: Improved access to State and Territory health services** – proposes reforming the National Health Reform Agreement to include commitments by states/territories to provide access for people receiving aged care services to state/territory health services including access to subacute rehabilitation services.
- **R93: Accreditation of high-level home care services** – by 1 July 2024, the new Act should require a home care service that provides care management and clinical care to be accredited in order to receive Government subsidies.
- **R117: Grant funding for support services** – states that the Pricing Authority should advise the System Governor on the form of block and activity-based grants that should be adopted for social supports, respite and assistive technology and home modifications.
- **R123: Payment on accruals basis for care at home** – Government should pay home care providers for services delivered or liabilities incurred on an accrual basis.

ACSA comments on home care

The recommendations support strengthening home care as part of an integrated end-to-end aged care system.

Priority has been placed on clearing the National Prioritisation List (R39) in what is an ambitious timeframe and while laudable, there are very real workforce challenges to be met in having enough ‘right-fit’ workers available.

ACSA proposes Government set out a two-to-three-year schedule for releasing enough home care packages to clear the current 100,000-person queue, and ensure anyone who needs one can access one at the appropriate level of need.

Considerable consultation and discussion are needed on growing and skilling the workforce to required numbers.

ACSA supports people who live at home being able to flex in and out of different levels of support (for example receiving low level social support or assistive technology support, or sub-acute rehabilitation while concurrently receiving a home care package), to remain as independent as possible in their own home and in their own community.

Further consideration will need to be given to the recommendations that address funding approaches (individualised budgets, block and activity-based funding) in home care including potential introduction of a casemix model.

Recommendation 123 which proposes payment on an accruals basis is consistent with changes to payment arrangements already in train.

ACSA supports older Australians who receive aged care supports continuing to be able to access state and territory health services. This is an important equity issue.

Prudential regulation and financial oversight

The Final Report has put forward a number of recommendations including **(from July 2023)**:

- **R130: Responsibility for prudential regulation** – the System Governor to be given responsibility for ensuring that, under all reasonable circumstances, providers have ongoing financial viability.
- **R131: Establishment of prudential standards** – the prudential regulator should be empowered to make and enforce standards relating to prudential matters.
- **R132: Liquidity and capital adequacy requirements** – the prudential regulator should be empowered to impose liquidity and capital adequacy requirements.
- **R133: More stringent financial reporting requirements** – with the frequency and form of reporting to be prescribed by the prudential regulator.
- **R134: Strengthened monitoring powers for the prudential regulator** – including enhanced powers to conduct inquiries, increased access to documents and powers to inspect.
- **R135: Continuous disclosure requirements** – every approved provider should be required to comply with continuous disclosure requirements.
- **R136: Tools for enforcing the disclosure standards**, guidelines, and financial reporting requirements.
- **R137: Building the capability of the regulator** – Government to ensure the prudential regulator has prudential capability in relation to the aged care sector.

ACSA comments on prudential regulation and financial oversight

A prudential regulator role is needed to ensure providers have the ongoing financial capacity to deliver high quality care and the ability to meet their obligations to repay accommodation deposits. This will require clear sight of a provider's financial position, most importantly their liquidity status.

The current financial reporting framework could be amended to address any identified reporting deficits, including addressing prudential matters. Currently responsibilities for prudential matters are split between the Commonwealth Department of Health and the Aged Care Quality and Safety Commission; this must be addressed, with the responsibility for prudential matters in a reformed aged care system sitting solely with the System Governor.

We support the principle that providers be required to hold sufficient liquidity to repay accommodation deposits as and when required. The threshold set must be determined in consultation with the sector, with a 15 per cent threshold suggested by StewartBrown. In setting a hard threshold, consideration could be given to a staged implementation timetable. In setting a threshold, definitions should be provided of the types of liquidity that are

acceptable. Further consideration needs to be given as to whether it is necessary to impose capital adequacy requirements if liquidity requirements are separately addressed. We support improved financial reporting that addresses transparency of financial position, as we do a continuous disclosure approach when required.

The prudential regulator must be well skilled and resourced to fulfill its important role.

Aged Care Accommodation

The Commissioners have made recommendations in relation to aged care accommodation including:

- **R45: Improving the design of aged care accommodation** via the introduction of National Aged Care Design Principles and Guidelines, which should be *'capable of application of small household models of accommodation'*.
- **R46: Capital grants for small household models of accommodation** – the provision of additional capital grants to provide small scale congregate living.

ACSA comments on accommodation

Exploration of suitable small household models of accommodation is worthy of further exploration, as there are evidence-based benefits of such living, particularly so for those with cognitive impairment. However, it needs to be explored and considered in the context of the broader spectrum of aged care accommodation options.

Factors such as financial viability of small scale accommodation will need to be properly explored in relation to land costs (particularly so in metropolitan areas), staffing efficiencies, yields, availability of land in inner metropolitan areas etc., and need further and ongoing consideration. Where small scale accommodation is not a viable option, consideration could be given to building pods or wings within larger buildings that introduce domestic scale design elements into the built form.

We need to keep flexibility in standards to meet the varying requirements people have for aged care - those who will be there for a longer period, but also shorter time frames, restorative care, and respite which may require/prefer a different built form.

Aboriginal and Torres Strait Islanders

Aged care for Aboriginal and Torres Strait Islander peoples (ATSI) was addressed in some detail in the recommendations.

- **R47: Aboriginal and Torres Strait Islander aged care pathway** – Government should ensure adequate provision in the new aged care system for the diverse needs of ATSI people regardless of where they live, including the provision of culturally appropriate care. Care should be delivered regionally and where possible on country.

- **R48: Cultural safety** – addresses training in cultural safety and trauma-informed service delivery and ensuring care finders and assessors are either ATSI people or suitably trained.
- **R49: An Aboriginal and Torres Strait Islander Aged Care Commissioner** – the report recommends a statutory role for an ATSI person to foster, promote and develop aged care services.
- **R50: Prioritizing Aboriginal and Torres Strait Islander Organisations as aged care providers** – Government should assist ATSI organisations to expand into aged care service delivery.
- **R51: Employment and training for Aboriginal and Torres Strait Islander aged care** – by 1 December 2022 Government should develop a comprehensive national ATSI workforce plan.
- **R52: Funding cycle** – Government should block fund providers under the ATSI aged care pathway on a three to seven year rolling basis with the pricing authority setting the funding level.
- **R53: Program streams** – Government and the System Governor should provide flexible grant funding streams that are able to be pooled across home care and residential care.

ACSA comments on aged care for Aboriginal and Torres Strait Islanders

The Royal Commission in its [Interim Report Neglect](#) identified that Aboriginal and Torres Strait Islander (ATSI) people are not well served by the aged care system², and despite experiencing disproportionate levels of illness and disability they are under-represented in the aged care system. The Report provides a blueprint for significant changes to Aboriginal and Torres Strait Islander aged care.

ACSA welcomes this comprehensive suite of recommendations to support culturally appropriate care for Aboriginal and Torres Strait Islanders, provided wherever possible on country and by indigenous workers. ACSA will consult with its ATSI members who deliver aged care services.

Regional, rural and remote (RRR) aged care

Around seven million people, about twenty per cent of the population are said to live outside Australia's major cities. This cohort has poorer health and welfare outcomes than those people who live in metropolitan cities. This inequity continues into old age.

Recommendations relating to RRR aged care provision include:

- **R54: Ensuring the provision of aged care in regional, rural and remote areas** – the System Governor should ensure that older people in RRR locations *'are able to access aged care in their community equitably with other Australians'* by identifying where services are inadequate and supplementing services.
- **R55: The Multi-Purpose Services Program** – by 1 December 2021 Government should maintain and extend this program, including developing a funding model that accounts for changing needs over time and a cost-shared capital grants program to rebuild or refurbish.
- **R86: Minimum staff time standard for residential care** – would require residential aged care providers to meet a minimum staff time quality and safety standard, with providers to select the appropriate mix for their model of care. This recommendation describes four minimum staff time requirements including at least

² Royal Commission into Aged Care Quality and Safety, Interim Report Neglect Volume 1, pp166-167

one registered nurse on site per facility at all times. However, an exemption can be sought for a range of grounds including where there are multi-purpose facilities like a health service, or in RRR facilities where providers ‘can demonstrate it has been unable to recruit sufficient numbers of staff with the requisite skills.’

ACSA comments on regional, rural and remote

Regional, rural and remote aged care services are a vibrant part of the broader aged care service landscape. They are integral to the communities they serve, not simply for the important care and services they provide to older Australians but also as part of the economic, employment and social fabric of their communities.

When these services close, significant social dislocation occurs for residents and their families.

ACSA supports measures that strengthen aged care service provision, and we know from StewartBrown survey data that the large majority of homes in rural and remote locations are losing money on a daily basis.

Improved funding is needed to sure up viability, and a new funding tool is needed in residential aged care that better recognises the costs involved in delivering services outside of metropolitan areas. An independent pricing approach would also benefit providers. Recommendation 113 to continue the 30 per cent Viability Supplement will assist until long-term arrangements are established. Government’s announcement also has committed to this continuing, at least in the interim.

Workforce challenges that face rural and remote providers must also be urgently addressed with measures designed to meet the challenge of recruiting and retaining staff.

Equity of access to regionally located aged care services is vital, including where possible in-reach services including with medical specialists, and where not possible via reliable telehealth supports.

Disability and younger people in aged care

Disability in aged care was specifically identified in the report, including addressing the matter of younger people in aged care.

- **R72: Equity for people with disability receiving aged care** – articulates the principle of older people living with a disability should have supports equivalent to those received under NDIS.
- **R73: Annual reporting to Parliament by the Disability Discrimination Commissioner and the Age Discrimination Commissioner** – on the number of people in aged care over 65 years and their ability to receive equivalent supports as those under NDIS.
- **R74: No younger people in residential aged care** – a range of measures for the Australian Government to implement to ensure that no person under 65 enters residential aged care from January 2022, no person under the age of 45 years lives in residential care by January 2022, and no person under 65 years lives in residential care from January 2025. Measures include developing programs with State and Territory

Governments for programs for short-term and long-term accommodation for those living in or at risk of entering residential aged care.

ACSA comments on disability and younger people in aged care

ACSA strongly supports the Royal Commission's recommendation around equity for people with a disability receiving aged care, including if they acquire a disability after the age of 65. We also support the national strategy to address younger people transitioning out of residential aged care with appropriate NDIS supports to locate and fund suitable disability accommodation.

Where a younger person chooses to remain living in a residential aged care facility for whatever reason (for example, remaining close to family in a regional or rural setting), they should be supported to do so. The preference of the individual concerned should be supported.

Better access to health care

A number of recommendations in the Report address primary health care. Recommendation 56 proposes a new primary care model to encourage the provision of holistic, coordinated, and proactive health care for the growing complexity of the needs of people receiving aged care. General practices would be accredited as aged care general practices, who would enrol people receiving residential care or personal care at home and would receive an annual capitation payment for each enrolled person on their assessed level of need. They would meet the primary health care needs, initiate, and undertake medication management review and deal with system performance reporting.

Commissioner Pagone recommended a trial for 6-10 years, while Commissioner Briggs recommended such a model be implemented by January 2024.

Further elements of primary health care were identified including:

- **R58: Access to specialists and other health practitioners through Multidisciplinary Outreach Services** – by January 2022, Australian and State and Territory Governments should introduce 'Local Hospital Network-led multidisciplinary outreach services' including provision of services in a person's home and 24 hour a day on call services.
- **R59: Increased access to Older Persons Mental Health Services** – to include standardised eligibility criteria that does not exclude people with dementia.
- **R63: Access to specialist telehealth services** – was addressed by recommending the expansion of the Medicare Benefits Schedule to fund such services and require providers to have the necessary equipment and capable staff to support them.
- **R64: Increased access to medication management reviews** – allowing pharmacists to conduct reviews if there has been a significant change to an older person's condition or medication regimen.

ACSA comments on primary health care model

ACSA welcomes the recommendation for a new primary health care model which ensures older Australians receive the support they require. We have long argued for equity of access for people receiving aged care services, equal to other Australians.

It is vital older Australians who receive aged care services have equitable access to mental health and psychological supports, particularly given reported increases in feelings of loneliness and isolation that have accompanied the current pandemic.

Provider governance

Provider governance has been examined by the Commission with four recommendations for reform.

- **R88: Legislative amendments to improve provider governance** – by 1 January 2022 the governing body of an approved provider providing personal care services must have a majority of independent non-Executive members (unless an exemption is granted) and a *'fit and proper person'* test apply to key personnel in place of the disqualified individual test.
- **R89: Leadership responsibilities and accountabilities** – Commissioner Briggs recommended a series of leadership responsibilities and accountabilities for leaders and managers including professional qualifications or high-level experience, performance appraisal and training and development.
- **R90: New governance standard** – proposes every approved provider is to meet a range of conditions including a governing body with a mix of skills, experience and knowledge between them to deliver safe and high-quality care; a care governance committee chaired by a non-Executive member; processes that support regular engagement with those receiving aged care, their representatives and staff to look at delivery or improvement of services, among others.
- **R91: Program of assistance to improve governance arrangements** – proposes the Australian Government commence from 2021-22 financial assistance to approved providers to improve governance arrangements, including care governance.

ACSA comments on provider governance

ACSA supports the proposed reforms to strengthen provider governance including care governance, and welcomes the recognition of the need for financial assistance to progress this. In its Interim response to the Report, the Government has announced a \$30.1 million investment in provider and legislative governance.

Data and reporting

The final report makes recommendations around data governance and reporting of data by aged care providers.

- **R107: Aged care research and innovation fund** – proposes the establishment of an Aged Care Research and Innovation Fund and by 1 July 2022 to establish and fund a dedicated Aged Care research and Innovation Council.
- **R108: Data governance and a National Aged Care Data Asset** – recommendation suggests empowering the Australian Institute of Health and Welfare to undertake a range of data-related functions including collecting a range of data associated with aged care, publish aged care related information and statistics and develop a National Aged Care Data Asset that includes statistics on aged care recipients and services they use, characteristics of the aged care workforce and the financial performance of providers.
 - Commissioner Pagone extended this recommendation by recommending a management group of key organisations to oversee the development of the dataset framework; and
 - Commissioner Briggs recommended the investment by the Australian Government in ICT architecture, technology and infrastructure by July 2022 to ensure systems are designed to enable better services for older people, utilise assistive technologies and smart technology and support interoperability.

ACSA comments on data and reporting

ACSA supports aged care research which translates into effective policy for the aged care sector and which improves the lives of older Australians. A reliable national data set that gathers information required to report on, benchmark, improve and support governance of the aged care system is essential for consistency and ongoing reform of the sector.

ACSA supports sector-wide development and financial support for technology projects in the aged care sector that enables agencies to deliver effective and efficient aged care services, support implementation and uptake of technology through training and change management, support education and skills development and improve delivery systems.

Data collection will help drive service delivery improvements, improve care and quality of life outcomes and support introduction of independent pricing as cost data will be vital to accurate cost review and price setting processes.

Quality and safety

A number of recommendations in the final report focus on quality and safety in the aged care system.

Consistent with the establishment of a new aged care system based on human rights of the older person, the following recommendations are concerned with embedding the concept of high-quality care in standards and as a general duty for providers to follow.

- **R13: Embedding high quality care** – suggests amending the Aged Care Act 1997 for aged care to give effect to characteristics of high-quality care including diligent and skilful care, safe and insightful care, caring and compassionate relationships, empowering care, and timely care. It also frames five outcomes for high quality

care that puts the older person first, including delivering care with compassion and respect for the individuality and dignity.

- **R14: A general duty to provide high quality and safe care** – proposes that the new Act has a non-delegable statutory duty on any approved provider to provide high quality and safe care that has regard to the wishes of the person for whom the care is provided, and any foreseeable risks related to the person for whom care is provided. There is also a duty that any worker engaged in personal care work has the ‘experience, qualifications, skills and training’ to perform the particular work they are being asked to.
- **R94: Greater weight to be attached to the experience of people receiving aged care** – from 1 July 2021 the Aged Care Safety and Quality Commissioner should publish a report on the experience of people receiving an aged care service.

ACSA comments on quality and safety

ACSA is of the view that the provision of high quality and safe care is paramount to quality-of-life outcomes for older Australians receiving aged care services. We support the notion that it is incumbent on providers to provide such care through a non-delegable statutory duty.

We support the principle that staff must have the ‘experience, qualifications, skills and training’ to perform the particular work they are being asked to.

Risks to recipients of aged care services must be managed balancing this against their right to self-determination. ‘Quality care’ must be quantified and appropriately costed and funded for the sector to be able to deliver it.

Dementia and regulation of restraints

Improved dementia services are recommended in the Report including:

- **R15: Establishment of a dementia support pathway** – by 1 January 2023 to develop a dementia pathway for people living with dementia, their carers and families. This would involve information, access to peer support networks, education and counselling, and assistance for continued independent living, access to care and planned respite for carers.
- **R16: Specialist dementia care services** – recommends that by July 2023, the Australian Government reports on whether the number of Specialist Dementia Care Units is sufficient to address need, the capacity of those units to address extreme changed behaviour and the suitability of these units for short-term respite.
- **R17: Regulation of restraints** – by 1 January 2022 the Quality of Care Principles be amended and that the use of restrictive practices in aged care *‘must be based on an independent expert assessment and subject to ongoing reporting and monitoring’* and should reflect the principle *‘that people receiving aged care should be equally protected from restrictive practices as other members of the community.’* It outlines that restrictive practices should be prohibited unless recommended by an independent expert, accredited by the regulator as part of a behaviour plan lodged with the regulator, or in the advent of an emergency to avert risk of immediate physical harm subject to conditions.

ACSA comments on dementia and regulation of restraints

ACSA supports provision of quality and contemporary dementia services for all people with a diagnosis of dementia. Government must adequately fund the delivery of quality services.

Specialist in-reach dementia supports must be provided and available equitably across regions, including access to Specialist Care Dementia Units for people exhibiting extreme behaviours.

ACSA supports the appropriate use of restraints in residential aged care and encourages a proactive approach to restraint minimisation practices, our position on the use of restraints is [available here](#)

Recommendation 17 follows the approach taken in disability in relation to restrictive practices, we have concerns about adequate availability of qualified practitioners to write behaviour support plans, including in regional, rural and remote regions.

Aged Care Quality Standards

The Report makes recommendations in relation the quality standards, including the following:

- **R19: Urgent review of the Aged Care Quality Standards** – by 15 July 2021, the responsible Minister should refer to the Australian Commission on Safety and Quality in Health and Aged Care to urgently review, and if appropriate amend for the following matters:
 - Best practice oral care, medication management, pressure injury prevention, wound management, continence care, fall prevention and mobility and infection control;
 - Nutritional needs, having regard to a person’s preferences and religious and cultural considerations;
 - Needs of those living with dementia;
 - Provider governance; and
 - High quality palliative care.
- **R20: Periodic review of the Aged Care Quality Standards** – proposes a comprehensive review of standards within three years, and then every five years after that.
- **R21: Priority issues for periodic review of the Aged Care Quality Standards** – proposes by 1 July 2022 the Australian Commission on Safety and Quality in Health and Aged Care identify priority issues for review.

ACSA comments on Aged Care Quality Standards

ACSA supports having appropriate quality standards in place, and that these require periodic review to ensure relevance and currency.

Quality indicators and star ratings

Both these matters are addressed with recommendations in the Report.

- **R22: Quality indicators** - by July 2021 the Australian Commission on Safety and Quality in Health and Aged Care has responsibility for the ongoing research into use and evidence basis for quality indicators and publication of guidance on use of indicator data to identify risks and support evidence-based risk management.
By July 2023, the Australian Commission on Safety and Quality in Health and Aged Care expand the quality indicators for residential aged care, develop quality indicators for home care and implement of quality-of-life assessment tool for both residential and home care. Furthermore, more comprehensive indicators for pressure injuries, physical restraint and unplanned weight loss are sought.
- **R23: Using quality indicators for continuous improvement** – notes that by July 2022, the Australian Government should implement reporting and benchmarking of provider performance against quality indicators including developing a methodology for providers of a similar nature to be benchmarked, track sector over time and set progressive improvement targets and publicly report on sector and provider performance.
- **R24: Star ratings: performance information for people seeking care** – proposes that by 1 July 2022 the Australian Government should develop and publish a system of star ratings on measurable indicators to enable ‘meaningful comparisons’ of services and providers. Star ratings as a minimum should cover assessment against Standards, performance against clinical and quality indicators, staffing levels and ‘robust information’ from people receiving aged care services, their families and advocates, when available.

ACSA comments on quality indicators and star ratings

ACSA supports introduction of meaningful quality indicators that help inform service improvements, and provide consumers with information with which they can judge service quality.

We argue that quality indicators need to meaningfully provide for transparency and comparability. To do this they must be casemix adjusted to allow comparability across different resident populations; currently they do not.

We have long called for quality indicators that measure quality of life outcomes for consumers and that are broadly outcomes focused to be introduced.

We support the introduction of star ratings that will allow for graded assessments, rather than simply denoting a binary compliance or non-compliance rating. We agree star ratings should be accompanied by additional information to help inform consumers. ACSA will emphasize that if a star rating system assesses minutes of care per day, the sufficient funding will need to be made available to providers to enable them to meet that staffing requirement.

Approval of providers

Approval of providers is addressed in Chapter 14: *Quality Regulation and Advocacy*.

- **R92: Approval of providers** – by 1 July 2024 the new Act should have 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.'* The Quality Regulator should consider 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 where relevant provider performance.

ACSA comments on approval of providers

ACSA supports the position that people wishing to deliver Commonwealth funded aged care services should be vetted as being fit and proper persons suitable to deliver aged care services.

Recipients of aged care services and their significant others should have confidence in the people providing the services they receive.

The regulator must have sufficient powers to approve entrants into the sector, monitor their performance, and act if it is apparent they are not meeting required standards, including the power to remove their approved status.

Serious incident reporting

Introduction of a Serious Incident Reporting Scheme is in train in the sector, with a scheduled commencement date of the 1 April 2021. The report addresses serious incident reporting.

- **R100: Serious incident reporting** – the Australian Government in developing a new and expanded scheme should ensure it address all serious incidents, including in home care, regardless of whether the alleged perpetrator has a cognitive or mental impairment. It requests that the Quality Regulator publishes serious incident reports on a quarterly basis at levels including system-wide, provider, service or facility. It requests providers undertake a plan detailing action in response to a reported incident and confers a range of powers on the Quality Regulator.

ACSA comments on serious incident reporting

ACSA supports the introduction of a Serious Incident Response Scheme (SIRS), initially in residential aged care and subsequently in a unified home care program that is designed to capture and report incidents of a serious nature.

ACSA supports transparency in reporting. Whilst the SIRS is new and bedding in, we recommend reporting initially occur at an aggregate level, eventually moving to more granular reporting.

ACSA notes a new reporting scheme is set to commence on 1 April 2021.

Civil penalties

The introduction of civil penalties is addressed in the report.

- **R101: Civil penalty for certain contraventions of the general duty** – provides for the new Act to address civil penalties in prescribed circumstances. It suggests that the new Act should provide that a breach by an approved provider to the general duty to provide high quality safe aged care attracts a civil penalty if the matter giving rise to the breach also gives rise to failure to comply with one or more Standards or the breach gives rise to harm or reasonably foreseeable risk of harm to the person for whom the provider is engaged to give care. It also includes the potential for accessorial liability for key personnel.
- **R102: Compensation for breach of certain civil penalty provisions** – proposes the new Act deal with civil penalties for contravention of the general duty and compensation for breach of certain civil penalty provisions, respectively.

ACSA comments on civil penalties

ACSA does not support these recommendations, which we believe would set a precedent in governance.

If this proceeds there would need to be a clear definition, and offences would need to be confined to the circumstances set out in the submission and only about matters (systems and processes) for which the Board can be held accountable.

A clear understanding and objective definition of what constitutes high quality would also be required.