Overview of ACRC for the week of February 18

At the end of another week of testimony, the ACRC had heard from 28 witnesses and mapped out a wide range of issues to inform later hearings. Questioning from Counsel Assisting this week focused on understanding the issues and concerns about the way the aged care system currently functions, hearing from consumers, providers, Commonwealth agencies and peak bodies through testimony on:

- Government expenditure on the Commonwealth Home Support Program (CHSP), Home Care Packages (HCPs) and residential care (through the Aged Care Funding Instrument - ACFI) provided under the Aged Care Act;
- The training of personal care workers - the Commission heard a range of views from peaks, consumers and union representatives on suitable minimum entry qualifications and ongoing training and development, with an emphasis on improvements to dementia, palliative care and mental health training;
- Medication management practices;
- The rigidity of the current regulatory system to allow for the concept of dignity of risk - the Commission heard evidence on how regulations sometimes stop people living the life they want;
- Workforce matters, including a registration system for personal care workers, union testimony on overworked staff, pay conditions and future workforce needs;
- Anticipated changes to quality of care to flow from the new Aged Care Quality Standards from 1 July, with multiple witnesses noting the new focus on person centred care;
- Issues of concern for GPs, workers and consumers around the health interface of care;
- Future funding needs and the issue of consumer contributions;
- Doctor/patient relationships, the perceived failings of handover practices and the current mechanisms for access to out-of-hours GP services;
- The need to build a more person centred aged care system that fosters innovation and better meets the needs of the individual;
- Complaints handling processes, with a discussion on the mechanisms available to consumers and families to approach providers with a grievance;
- The issue of access to nurses in residential care as a factor in quality of care, with a range of responses; and
- Discussion of doctor, provider and consumer experiences on the use of physical and chemical restraint.

Questions from the two presiding Commissioners covered:

- Auditing of the ACFI;
- How to provide the level of qualified staffing to deliver the highest standards of care, without ‘the blunt instrument of mandatory staffing arrangements’;
- Additional training places for geriatricians to deal with a growing number of aged citizens;
- Access to palliative care in residential aged care;
- Staffing and expectations around staffing - community confidence in providers and their ability to ‘do the right thing’ and provide appropriate levels of staffing and skills mix;
- Funding of palliative care;
- Teaching nursing homes;

- Feedback on My Health Record and if there has been any improvement in the interface with allied health with the new record keeping;
- Innovative models of care;
- Whether family carers go on to seek formal employment in the aged care sector; and
- Recruitment of foreign workers to work in the sector.

DAY 1: Monday 18 February

Glenys Beauchamp - Secretary, Commonwealth Department of Health

Counsel Assisting questioned Ms Beauchamp on the three programs - CHSP, HCP and residential funding - and the average age, assessment and funding, and purpose of each program.

The ACRC heard the way in which the Department manages the budget allocation for aged care and about the challenges of adequately resourcing for demand, taking into account higher patient acuity, dementia needs and the waitlist for home care.

Questioned on the effects of the suspension of indexation on funding, Ms Beauchamp noted the amount of funding provided to residential care had been growing, while also noting the increasing acuity and number of claims. Ms Beauchamp said there hadn't been a direct assessment of the impact of ACFI funding changes on quality and safety.

Ms Beauchamp expressed support for a screening database for workers in the aged care sector, including information on the expertise, knowledge and quality of aged care workers. On the issue of CCTV cameras, she expressed a view that a move to CCTV monitoring would require 'substantial consultation' between consumers and providers.

Counsel Assisting said: *"It's been suggested that the new standards applied to the Single Quality Framework are less prescriptive than the current standards, particularly in relation to oral health.".* Ms Beauchamp responded that it was more broadly rolled up into personal care and clinical care standards.

The Commission heard evidence on reportable assaults, with Ms Beauchamp saying numbers published don't include resident on resident assaults. She added the Government was considering including such incidents in future reporting requirements and advice would soon be put to Government.

Counsel Assisting talked about consumer experience reports, and also inquired after the use of physical and chemical restraints.

Ms Beauchamp told the Commission the Department will be introducing mandatory reporting requirements around the use of physical restraints.

"We're currently working on the mandatory quality indicators that are currently voluntary," she said. *"We are looking to extending those from physical restraints to medication management. We'll look at whether we need to strengthen the regulations under the Aged Care Act."*

Ms Beauchamp said a committee of experts – convened during the past couple of weeks - was examining medication mismanagement. The results of the committee's review will not be known for *'many months'* as the first meeting of the committee is occurring only this week.

Commissioner Briggs asked a series of questions about providers and their reluctance to be fully transparent and cooperative around volunteering information requested by the ACRC. She also

asked: *'What do these practices say about the willingness of the industry to be open about their pricing arrangements?".*

Another question on ratios followed: *"How much confidence can the community have that providers will willingly provide the right number of staff rather than the blunt instrument of staffing ratios?'.*

Ms Beauchamp responded that ratios were indeed a blunt instrument and *'I think we need to be looking more at training, education, knowledge - and the attitudes of compassion and caring is really important.'*

Janet Anderson – Commissioner, Aged Care Quality & Safety Commissioner

Testimony began with Ms Anderson talking about the mandate of the Aged Care Quality and Safety Commission, following her appointment to the role six weeks ago, and its functions as set out in the Act.

In response to questions about her priorities for the Commission she said: *"It's clear to me there is more work to be done to make the complaints process accessible and as un-intimidating as possible…".*

Evidence was given about the pending appointment of the Chief Clinical Officer - *"We are in the closing stages of a recruitment process."* - and the *'top priority'* the clinical advisor will give to managing and minimising restraints.

In the complaints area, the Aged Care Quality & Safety Commission is actively looking at how to make information available to consumers about providers in the sector. The ACRC heard discussion on complaints handling processes, with a discussion on the mechanisms available to consumers and families to approach providers with a grievance.

The Commissioners queried the employment of assessors, noting some may also be employed by providers - which Ms Anderson clarified by stating that some assessors work part time for the Aged Care Quality & Safety Commission and also work part time as consultants for nursing homes and aged care providers.

The arrangements for review of assessments and the conflict of interest arrangements for assessors was discussed.

Harry Nespolon - President, The Royal Australian College of General Practitioners

This witness provided detail around the unpaid hours GPs commit to the care of their patients in residential aged care and why many GPs have opted out of providing that care (because of the unbilled hours).

Reference to a blog was made, outlining the various activities of a visiting GP to a residential aged care facility - including handover practices and a range of out of scope work for which there is no remuneration.

DAY 2: Tuesday 19 February

Maree McCabe - CEO, Dementia Australia

The Commission heard there are an estimated 436,000 Australians living with dementia, with 50 per cent of people living in residential aged care living with dementia - and that by 2056 there will be 1.1 million Australians living with dementia.

Dementia is the second leading cause of death in Australia and the leading cause of death for women in this country.

"This is the chronic condition of the 21st Century," Ms McCabe told the ACRC.

Counsel Assisting asked Ms McCabe about public perceptions of dementia, what the public needs to know, and how diagnosis typically occurs. He also asked why GP's are reluctant to diagnose - to which Ms McCabe responded by saying the lack of cure and treatment options means GPs often choose not to disclose a diagnosis because, to their mind, there is no benefit in doing so.

Ms McCabe urged for more training for GPs in dementia diagnosis and for improved referral pathways post diagnosis.

She spoke about a breakdown in ongoing referral, and the lack of referral pathway compared to other chronic diseases like cancer and diabetes. Ms McCabe also stressed the importance of supporting carers, which she said was essential for good care outcomes for the sufferer of dementia and the carer as well.

Topics covered also included respite care and social isolation and dementia.

Counsel Assisting asked Ms McCabe about the My Aged Care interface between Government, consumers and carers, and a perceived lack of quality advice for carers seeking advice on how to care for dementia sufferers at home, often at risk to themselves.

Ms McCabe spoke about the need to have quality care standards clearly articulated and monitored for the 50 per cent of people in residential care who have dementia.

Counsel Assisting concluded with a discussion on the use of restraints with people with dementia and educating staff on non-pharmacological methods. Ms McCabe said antipsychotic medication is not effective in 80 per cent of cases, and said it is important there are opportunities for staff to be educated in other methods available to them.

Concerns that there is no way of transparently learning about poor quality personal care workers were also raised.

Pat Sparrow - CEO, Aged & Community Services Australia (ACSA)

Early questions from Counsel invited Ms Sparrow to reflect on how her perspective on aged care is informed by her career experiences in both Government, in consumer facing roles, and now as a representative of providers.

Questions followed on the meaning of quality and safety, to which Ms Sparrow said she believed the majority of aged care is of a high quality.

Shortcomings in the legislative scheme were noted and queried, and Ms Sparrow elaborated on *'dignity of risk'* for older people, as well as 'different constructs for primary health care, which perhaps impact on people's access to important GP and medical services when they're in residential aged care'.

Ms Sparrow elaborated on ACSA's recommendations that reforms to regulation around clinical care – including the regulation of visiting GPs and specialists in residential aged care - proposing it as part of the regulation of health services with the Commonwealth.

"Would it not be better that those same standards and that was delivered across aged care rather than creating a separate aged care regulation?" she said.

Discussion moved to the new safety and quality standards coming in on 1 July and whether Ms Sparrow regarded those as imprecise. She said: *"ACSA regards them as broad statements that are focused on what individual residents need and want and we think that's an important shift."*

When asked about CCTV cameras, Ms Sparrow responded that consent is key. *"As we know, there are CCTV in many public areas in aged care facilities already and providers do actually now facilitate requests from families."*

Ms Sparrow spoke about concerns about the future capacity to deliver on demand for home care, with the waitlist standing at around 126,000. Home care pricing and transparency and comparability was discussed.

Counsel Assisting asked about ACSA's view of how providers can assess 'appropriate' staffing needs, noting ACSA doesn't support minimum staffing ratios.

Ms Sparrow replied: *"There are a whole range of staff that are factored into determining what your staffing is to meet resident needs and to make sure that the quality of care is good. Organisations have different models of care and sometimes that requires different staffing. So, a provider would take all of those things into account in determining what staff and skills mix they need to support the residents in their care."*

Commissioner Briggs asked about HCPs and how administrative costs are calculated, to which Ms Sparrow responded that there was *'work across the board on how to make it more transparent and provide more meaningful information that explains and helps consumers compare'.*

Commissioner Tracey asked questions about the workforce training required to support increased delivery of home care services, the concept of 'teaching nursing homes' and funding timelines for palliative care.

Sean Rooney - CEO, Leading Aged Services Australia (LASA)

Discussion began with a detailed brief of the LASA membership, the role of its CEO, and the services it provides. Questioning from Counsel opened with reference to the new quality standards and why LASA advocated for an amendment from 'continuous' monitoring to 'regular' monitoring.

Counsel referenced the new Aged Care Quality Standards, due on 1 July, and noted the suggestion had been incorporated into legislation – now referring to 'regular' monitoring.

Counsel asked about the Draft Aged Care Quality Standards consultation paper and why there was a concern about the reference for 'comfortable internal temperatures.' Mr Rooney replied that he didn't want the reference removed, but that he had requested clarification of the standard.

Counsel Assisting asked Mr Rooney if he had ever engaged in advocacy for changes that were in the best interests of residents, but at the expense of providers.

Mr Rooney said he *'cannot recall any occasion where that has been the case'*. He added: *"What I would say is that where an issue has arisen, we would point out to Government or the regulators or whoever that with that outcome would come a series of issues that would need to be resolved from a provider's perspective in order to deliver that outcome."*

On staffing, Mr Rooney said the staffing and the skills mix of staffing needed to reflect the needs of the residents. Falling numbers of enrolled and registered nurses was noted by Mr Rooney, alongside an increase in the number of personal care workers and an increase in direct contact hours.

Mr Rooney was queried on his claim that improved direct contact hours was the result of upskilling of personal care workers, with Counsel querying training for personal care workers as the 'bare minimum'.

Benchmarking of provider performance for the benefit of both provider and consumer was discussed, as was LASA's position with regard to restraint as a measure of last resort.

Nick Mersiades - Director of Aged Care, Catholic Health Australia (CHA)

Mr Mersiades briefed the ACRC on his role and the member base at CHA, as well as his position with the Aged Care Financing Authority (ACFA).

The ACRC heard about the importance of consumer contributions as a principle and increasing consumer choice in aged care.

"The Government needs to make people pay more for their own care – where they are able to afford it," Mr Mersiades said. *"We need to have a national conversation about the quality of aged care we expect for the future and how we are going to pay for it."*

In a discussion on an alternative funding model, Mr Mersiades argued for eligibility assessment and funding assessment to be carried out externally and independently.

"We also support the thrust of the Resource Utilisation and Classification Study (RUCS) which is moving towards creating a funding system based on the case mix system, which is used throughout public hospitals," he said.

Commissioner Briggs sought clarification from Mr Mersiades that he supports the 'shift in the proportion of the cost of care borne from the government to the older community through their estates to support the demographic challenges we face with the sector'.

Home care waitlists, the interface between the residential facility and the health sector, and over reliance on administering psychotropic medication, as well as CHA's position on ratios, was also discussed.

DAY 3: Wednesday 20 February

Claerwen Little - National Director, UnitingCare Australia

The witness clarified for the Commission her directorship of an organisation providing residential home care and residential aged care to more than 100,000 older Australians.

Queried on why the word consumer is used, Ms Little responded that the term is empowering and signals empowerment and decision making on behalf of the individual, rather than the system.

A discussion ensued about a 'rights based approach' to care and the importance of giving consumers choice and dignity, humanity and ensuring their 'sense of who they are' is upheld within the system. Dignity of risk and the need for more pragmatic regulations to be adopted - balancing risk and choice – was also discussed.

"I think the regulatory environment needs to be much more flexible, it needs to be based on the needs of the individual rather than the needs of the system. Of course, it needs safeguards, but needs much more flexibility so that a care provider can meet the needs of the individual," said Ms Little.

She discussed UnitingCare sponsoring research to dig deeper into community expectations of aged care, including findings that *'some people suggested they would rather die than go into a residential aged care facility'.*

Ms Little also discussed points in her witness statement relating to funding and regulatory regimes that maintain the status quo and discourage innovation. She proposed a national innovation fund to foster new thinking about leading models of care outside the current paradigm.

"We are a country that has been renowned over the decades and centuries for its innovation and I think that we have the opportunity now, given the crisis we've got, to actually change the paradigm," Ms Little said.

Counsel also raised the issue of significant gaps in the interface between aged care and other health systems.

Commissioner Briggs asked whether Ms Little agreed that the regulatory framework - up until a few years ago - needed a bit of attention, to which Ms Little responded: *'absolutely'.*

Melissa Coad - Executive Projects Coordinator, United Voice

Ms Coad said the single biggest issue for workers is they don't feel they can do the job to the best of their ability.

"If nothing changes, we have a significant challenge of growing the aged care workforce, and if wages and other conditions don't change we will have a significant problem," She said.

Her testimony included detail on overworked staff, pay conditions and future workforce needs. Reducing time pressures and addressing workload issues were identified as priorities to achieve better quality care.

Ms Coad said her union was calling for mandated training at Certificate III level as an entry level qualification and additional training for specific health conditions, including palliative care and dementia. She also said minimum staffing levels, introduction of career pathways, and career pathways with minimum entry level training were all priorities.

She urged for the screening of personal care workers to be made regulation, including *'a pre-employment screening check that was slightly broader than purely a police check.'*

Commissioner Tracey asked about the extent to which the industry is dependent on foreign workers. Commissioner Briggs asked about the level of training provided by providers and the flow of carers who seek formal employment in the aged care sector after caring for family.

Matthew Richter - CEO, Aged Care Guild

Mr Richer began testimony with a statement of the Guild's interests on behalf of for profit members, while noting advocacy also takes into account the needs of consumers.

The ACRC heard the Guild's members are involved in the voluntary National Quality Indicators Program, although numbers were not known.

Increased staffing needs, access to allied health, meeting the needs of those on the home care wait list, and the mechanisms for access to out of hours GP services were discussed.

The Guild testified that its primary concerns were *'policy and regulatory instability and then financial vulnerability of the sector overall'* - in that order.

The ACRC was told the Guild's for profit members return a positive, on average, return on assets of somewhere between 2 per cent and 3.5 per cent return on assets.

Commissioner Briggs asked whether the Guild had a view on the significant reduction in the proportion of the workforce who are registered nurses. Mr Richter responded by saying there was the need for more transparency on staffing levels and calling for *'a mechanism to make clear across the entire industry the staffing situation and what the models of care are all at once'.*

Anthony Bartone - President, Australian Medical Association (AMA)

Dr Bartone gave evidence of the role of nurses within residential aged care and the importance of a *'good clinical handover as the basis of good clinical care'.*

The AMA position on staffing ratios was described as favouring an evidence based approach to minimum staffing numbers, which would vary based on the complexity of patients at a facility and would therefore need to be flexible.

The ACRC heard evidence on the disadvantages older Australians experience when it comes to accessing allied health services once they are resident in a facility.

The AMA outlined its position on physical and chemical restraint as: *"Essentially, restraints should be the last form – the last episode– of trying to deal with a patient's condition that need – that may - be the subject of being restrained."*

Dr Bartone also gave testimony about the difficulties of having two *'funders'* in the system (essentially state and federal) looking at different parts of the health system, and *'here is opportunity for care – fragmentation of that care to occur'.*

He cited the issue of hospital transfer from residential care as an example, saying the involvement of state and Commonwealth parts of the system was an example of the disconnect between parts of the service because of funding.

DAY 4: Thursday 21 February

Gerard John Hayes - National President, Health Services Union (HSU)

Discussion was held on carers as part of the member cohort, with Mr Hayes pointing out that many have a Certificate III in aged care and also a Certificate IV in aged care, but *'there's no absolute legal necessity for people to come into aged care to actually have those certificates.'*

The ACRC heard the training options available to workers in aged care were *'inferior'.* The possibility of accreditation and registration for workers in aged care was raised.

Mr Hayes said: *"I think this is something that needs to be examined. I think it also needs for examined also that when you have people who are on $20 an hour and if a registration is going to be $600 a year, we may see people going to work at Woolworths or Coles for $20 an hour than try to find the money to be able to register themselves. So, we've got to be really mindful – I think any form of accreditation is a good thing, but we've got to make sure that we're dealing with the demographic that we have."*

Mr Hayes said recent member surveys pointed to consistent concerns from members with staffing, training, resourcing, and cutting corners.

"It's – the message just over and over is repeated throughout these surveys," he said.

A number of member concerns were canvassed, including the problem of whistleblowers in aged care having their hours reduced, short staffing, and the difficulty of attracting allied health professionals and other health professionals to work in aged care in regional areas.

Mr Hayes proposed protections for whistleblowers so they can make a notification *'whether it's an industrial notification or a notification in relation to any form of abuse'.*

He also talked about the benefits of shared service in relation to allied health professionals, whereby there might be a regional hub of services that each of those facilities can draw upon on a regular basis.

Kay Warener - Spouse of aged care consumer (home care)

Ms Warener gave evidence about her experiences waiting on the national home care prioritisation queue and with My Aged Care. Ms Warener and her husband Les have been waiting to receive his Level 3 package since November 2017, and they are still waiting.

Ms Warener said her husband's health was deteriorating and it was difficult not having home care Level 3 assistance that would help alleviate the difficulties they were experiencing.

Margot Harker - Recipient of aged care services (home care)

Ms Harker spoke about her experiences with her carers, her struggles with the home care system and the difficulties of having multiple carers from different providers - one home care and another CHSP.

Barrie Anderson - Spouse of aged care consumer, previously home care and now residential aged care

Mr Anderson gave evidence about the challenges he faces caring for his 85-year-old wife, Grace, who developed dementia and now lives in residential aged care.

DAY 5: Friday 22 February

Senior Counsel Assisting, Dr Timothy McEvoy, opened his summation with a statement about the intent of the past eight days, saying it was *'…structured to provide background and context to the Commission's future work…This hearing was designed to ventilate the key concerns of organisations with deep interest and involvement in aged care and identify lines of inquiry that will need to receive attention from the Royal Commission in coming months'.*

Evidence from 28 witnesses was heard and Dr McEvoy said: *"Each of these witnesses had something valuable to say about the quality and safety of aged care or the particular challenges they face."*

Through a lengthy recapping of witnesses and the main themes of their testimony, Dr McEvoy singled out the following areas as warranting further attention from the ACRC:

Regulation of quality and safety

Dr McEvoy said Oakden was, in a *'real sense an outcome of a defective regulatory framework, bound to three year accreditation cycles accompanied by predictable audits which would not necessarily show the real state of affairs'.* He said the work of the Carnell-Paterson Review, and the resulting 10 detailed recommendations covering a range of regulatory measures designed to draw improvements in quality on behalf of providers are *'only partly implemented and progress on some of the actions might fairly be regarded as slow'.*

Addressing the Commissioners on quality and safety, he said: "Commissioners, we do not invite you to make any recommendations on quality and safety yet, however there does appear to be a suite of regulatory frameworks of ongoing concern and they will merit continuing scrutiny over the course of the inquiry."

Funding and sustainability

Dr McEvoy recapped on the views expressed on funding, and the operation of ACFI.

Reflecting on the evidence presented on a range of topics within the funding theme, Dr McEvoy singled out home care for mention, saying: *"It is unclear to what extent there is oversight of the acquittal (of funding) to approved providers in home care. The Commission will continue its inquiry in this respect."*

He added later: *"The Commission has significantly more work to do in analysing the sustainability of the sector."*

Dementia

The Commission was told it has heard important evidence about the scourge of dementia. *"It is clear that understanding and accounting for the needs of old Australians with dementia will be critical to the design of the aged care system going forward,"* said Dr McEvoy.

The ACRC heard 50-60 per cent of those in residential care have a dementia diagnosis and *'many witnesses identified a need for a variety of care models to deal with these needs'.*

The ACRC will give more detailed consideration to these new models at its May hearings, Dr McEvoy said.

Physical and chemical restraints

A '*very important avenue of inquiry for the Commission'* and *'the Commission will need to do further work on this also'* commented Dr McEvoy in his closing remarks.

"The nature of regulations the Minister has planned is unclear," he said.

Interface with Health

Evidence from GPs about interface with residential care in effect suggested *'GPs effectively make a subsidy available to the system'* through unremunerated time, Dr McEvoy said.

Improving hospital transfers and suggested improvements like consulting rooms in residential aged care facilities were put forward for consideration, but *'it is clear the workings of the Medicare system in the context of aged care bears particular scrutiny by the Royal Commission.'*

Workforce

Dr McEvoy singled out personal care workers for mention in his summary, with comments including: *'in a remuneration sense, the work of personal care attendants in the aged care sector is not adequately valued'* and *'screening database and training and qualifications are live issues for the Royal Commission to consider'.*

Registered Nurses

Dr McEvoy commented on the *'centrality'* of nurses to the aged care system, saying *'the nature and extent of the evidence (received on staffing and nursing) and a link between quality and safety will be a focal point in the Royal Commission's work.'*

Staffing Ratios

Dr McEvoy said there had been no shortage of evidence of the views around staffing ratios, but an *'evidence based starting point'* was needed to examine the issue. He singled out the Australian Nursing & Midwifery Federation's 2016 study on aged care staffing and skills for mention, saying it *'represents a starting point which is capable of refinement and development….the need is pressing, with nurse retention an issue, and is likely to represent a further significant barrier to the delivery of person centred care'.*

Comment was made at the end of the hearing about future hearings, including:

- **18 March – Adelaide:** To be focused on home care and the community
- **6 May – Sydney:** To be focused on residential care, including and in particular, quality and safety and dementia.

~ENDS~