PRODUCTIVITY COMMISSION SUBMISSION

July 2010

Jim Toohey

Introduction

About the author

Jim Toohey is a former long term CEO of one of the oldest and largest private sector residential aged care, retirement living and community care providers in Australia.

Approach

I am especially appreciative of the opportunity to contribute to this review given that, since my departure from TriCare , I am able to exercise a degree of independence in my comments and recommendations free from the constraints of safeguarding myself from conflict with personal interests.

Methodology

It is not my intention to comment extensively or refer to specific data sets relating to financial viability, construction trends etc. These have been exhaustively reviewed and professionally analysed all manner of very credible organisations including;

Grant Thornton
Stewart Brown
Aged Care Services Australia
Aged and Community Care Australia amongst others.

It is my intention to specifically address only those terms of reference where I can make a contribution beyond that of other organisations or relevant to my independent perspective referred to above.

Commission's TERMS OF REFERENCE

The following comments and recommendations are made in respect of the Terms of Reference set out in the Commissions Issues Paper of May 2010.

Without doubt, aged care is the most highly regulated non-government sector in existence in Australia today.

Over the last 15 years, it is my observation that the main drivers of aged care policy at both the political and executive level have been;

*Minimisation/control of government funding and ;

*Political considerations of perception/expectations of the community including elderly residents and their carers/families.

Firstly financial control.

The CAM/SAM system in operation up until 1997/98 was a case in point. It delivered unequal outcomes for government/ taxpayers, residents, staff and providers.

This model provided a very specific linkage between residents care needs, hours of nursing and care and staff wages.

As with the current system, daily care subsidies based on assessed, individual resident needs pursuant to a ranked scale, were paid directly to providers specifically for expenditure on nursing and personal care staff and related nursing and personal care activities only.

These subsidies were indexed quarterly based on movements in relevant state nursing industrial awards. There also existed a further legislative requirement and a financial incentive for providers to acquit 100% or as close to 100% as possible of

this funding on specified nursing and personal care related activities only. This policy ensured very similar if not identical nursing and personal care resource for residents of identical assessed needs in various facilities all throughout each state given that the subsidy amounts per assessment were identical.

As salaries for nursing and personal care staff as defined by relevant state awards increased, so these increases flowed automatically via this subsidy stream.

The other aspect of the system was the incredible complexity of regulations surrounding how these subsidies were to be expended.

This financial viability of this model (as stated publicly by senior department officials at the time) was predicated on 100% or as close to 100% as possible occupancy.

The obvious drawback of such a system was that providers were financially rewarded to spend taxpayer funds whether they needed to or not and given the link with state nursing industrial awards, there was little or no incentive to engage in enterprise bargaining to seek greater efficiencies for providers and opportunities for staff in the delivery or to resist prohibitive wage claims - the cost of employing staff was borne directly by the Commonwealth.

In high care, resident fees were strictly controlled as they are today, though there was some capacity in low care (or hostel care as it was then known) to levy fees based on individual residents capacity to pay.

From that system through some modest evolutions and arguable improvements, the current funding module derived.

Providers still continue to receive a specific daily subsidy for residents based on individually assessed and ranked care needs but the validation of the precise expenditure of these funds is no longer required.

However, as occupancy has fallen significantly in recent years - particularly in major cities and urban corridors - the predictability of income funding has been affected beyond the usual variability of new residents with different needs but also via unfilled beds – many of which can remain vacant for some time.

The most recent statistics suggest that occupancy is running about 94% of operational beds - high and low.

Leaving aside the extra services sector, providers now operate in a significantly more challenging financial environment than 10 years ago. With new variables such as fluctuating occupancy and the elimination of a direct link between nursing and personal care wage movements and subsidy indexation, a highly regulated funding system is too inflexible enough to meet changing circumstances.

Capital funding.

Similarly, changes over the last 15 years have led to substantially different financial drivers in the area of capital funding.

Whilst current and previous legislation has always reflected the principle that residents with the capacity to meet the capital cost of their aged care accommodation, do so (via accommodation bonds in low care and accommodation charges in high care with the concessional subsidy for residents unable to make any contribution paid directly to providers). Again, as with operational funding, regulatory emphasis has focussed on maintaining strict price control rather than creating funding streams which are flexible enough to move with changes to costs.

For example, the permitted drawdown from accommodation bonds has not changed in well over a decade (other than annual indexation circa 2.5% per annum) yet the average bond paid and the cost of construction of residential aged care facilities which meet the new building certification requirements has very conservatively doubled or tripled in the same period.

This is another example of a funding system which bears no real relationship to changing costs (often incurred by regulatory fiat – building certification changes, mandatory reporting, accreditation changes etc) which is a fundamental prerequisite for a healthy commercial environment.

Finally, political/community expectations.

Aged care remains one of the most community sensitive sectors in Australia. The quality of care afforded the elderly is seen as a critical service component of a modern society and the standard and quality of that care is considered a benchmark of the compassion of that community.

Primary responsibility for care of the elderly has moved significantly from family to government over the last 50 years and this movement is accelerating.

This is driven by two major factors; firstly, the entry of larger numbers of women into the workforce means that traditional carers such as middle-aged women are no longer able to meet the responsibility for the care of elderly parents and secondly, as health outcomes have improved, the life expectancy of the average frailty aged person needing nursing and personal care has increased significantly.

Another important factor which has changed far more slowly is the sometimes unconscious cultural/societal belief that responsibility for the care of elderly parents and grandparents really rests with their children.

This guilt or anxiety manifests itself to a very large extent in relatives having exceptionally (and sometimes unfairly) high expectations of the standard of care and accommodation to be provided to their elderly parents and grandparents. Indeed, in many cases, their expectations are far greater than the standard of care and attention they would themselves be actually capable or prepared to provide. Notwithstanding, the guilt or anxiety driving these expectations creates a significant pressure on politicians (Ministers for Aged Care are generally first-time ministers) ever sensitive to adverse media reactions, resulting in them identifying their role

solely as guardians of elderly people or more crudely "tough cops on the beat" when it comes to aged care providers.

This sensitivity overwhelms considerations of the long-term cultural and economic consequences of a highly regulated taxpayer funded aged care system as it currently exists and there is seems to be very little will in the current political spectrum to address long-term challenges.

Indeed, a belief narrow belief that the role of an aged care Minister as confined largely to zealous oversight of the sector lends itself naturally to the bureaucratic inclination for further, more extensive and intrusive regulation.

The situation is exacerbated by the very minimal efforts made by most aged care providers (as distinct from their representative organisations) to advocate more strongly on their own behalf.

Conclusion

1. The current funding system is not greatly different from those which preceded it namely extremely high levels of regulatory intervention, cost control and strict minimisation of cost increases as the aged care program grows.

2. There is very little recognition in the political arena or the bureaucracy that the current policies will not be appropriate for the substantially increased pressures in the future given the growth of numbers of frail aged, the rapidly increasing cost of healthcare generally and most importantly, the fact that these future care recipients will have substantially higher expectations and much lower tolerance for "one size fits all" care and accommodation programmes.

3. A highly regulated, interventionist environment is seen as an effective stopgap for governments of all persuasions to minimise costs and meet the expectations of anxious and/or guilty resident relatives. It also unfortunately feeds the community's

perception of the provision of aged care as being a largely public responsibility despite the growing financial capacity and desire of residents for more choice.

Given these factors, the current environment for genuine, long-term aged care reform is extremely poor.

Recommendations

The aged care sector needs to play a much stronger and more visible role in communicating and educating the community about the cost of aged care, the current demographic and financial trends of an ageing population and the necessity to encourage future elderly care recipients with an increased financial capacity to utilise this capacity for their own benefit and to meet their own expectations.

There are however some steps which could be taken immediately to reverse the unhealthy situation in the sector find itself with a move down the track toward long term, flexible, high quality and economically sustainable aged care and accommodation provision.

Immediate Steps – next three years

A. Establishment of an independent authority comprised of direct industry representatives, Treasury and Finance officials to regularly and transparently assess the cost of inputs into the provision of aged care and to determine an appropriate annual indexation amount as a result.

B. Adopt government tender guidelines for the allocation of bed licenses preferably by outsourcing the entire function to an appropriately referenced private sector organisation to ensure greater transparency of decision-making and an allocation methodology which is reflective of the reality of changing trends including occupancy in existing facilities.

C. Legislate to require every and all future changes or additions to the regulatory regime or any other mandated requirements on providers to be accompanied by a full cost benefit analysis which includes input from aged care providers and/or appropriate representative organisations. This also relates to changes to building certification.

D. Abolish the distinction between high and low care and allow all residents irrespective of their classification the opportunity to pay a lump sum refundable deposit in lieu of accommodation charges and to contract for further drawdowns from this lump sum or direct increased financial contribution to meet any additional services they may desire to receive.

Medium-term - next 3 to 5 years.

A. Abolish the allocation of bed licenses completely. Allow approved aged care providers to make decisions as to where they will construct facilities, the numbers of beds they will operate ,the configurations of rooms and facility layout apart from minimal building certification requirements focusing on health and safety.

B. Abolish the concessional resident subsidy in favour of public tendering by aged care organisations for the provision of concessional aged care places to an agreed and appropriate standard, allowing for the provision of these services in entire facilities or any part of facilities operated by the provider.

C. Legislate to allow aged care providers to charge lump sum refundable deposits from residents with the capacity to pay or alternatively to contract to levy deceased estates for an agreed amount incurred in the provision of aged care. These agreed deductions, over and above any government subsidy still payable, can include costs for the provision of nursing and personal care where the resident and/or the family feels that such care is necessary or desirable.

D. Introduce a quality/accreditation regime completely independent from government with the capacity to make recommendations to government about the removal, restriction or alteration of approved provider conditions if so warranted. Approved providers must be afforded the opportunity to challenge any such findings or decisions in an independent jurisdiction.

E. Encourage aged care providers to develop and offer whole of life solutions to elderly people so that residents needing initially very little or no nursing and personal care but rather the security of a protected aged care community can move through all levels of care regulated and unregulated as seamlessly as possible minimising the requirement for relocation as care needs change.

I would like again to take this opportunity to thank the Commission for the opportunity to contribute to this review and to accept my comment/recommendations in good faith as they are tendered.

Jim Toohey