



Lutheran Community Care

21<sup>st</sup> March 2011

**Mr Mike Woods  
Deputy Commissioner  
Inquiry into Caring for Older Australians  
Productivity Commission  
GPO Box 1428  
Canberra City ACT 2601**

Dear Mr Wood,

**Response to the *Caring for Older Australians* draft report**

I am pleased to present a submission on behalf of the Board for Lutheran Aged Care Australia (BLACA) in response to the Productivity Commission's draft report entitled *Caring For Older Australians*.

BLACA is the Lutheran Church's national consultation body for its aged care services. The Lutheran Church is well represented as a provider of services to older Australians in most mainland states: South Australia, Queensland, NSW and Victoria. The services delivered include residential aged care, community care, retirement villages, allied health services, day therapy as well as some HACC services.

BLACA is represented on the National Aged Care Alliance (NACA) and was an inaugural member of the Campaign for the Care of Older Australians (CCOA). Lutheran Community Care Queensland represents BLACA on these bodies. We consider that the framework for aged care outlined in the draft report provides a basis for significantly better outcomes for consumers, providers and government. Although we have suggestions or concerns about some of the details of a few recommendations which are outlined in our submission, we hope that all stakeholders endorse the general directions and that this opportunity for transformative change is not lost. We will work through NACA and CCOA to progress the issues that we have raised.

Yours sincerely,

**Jacqueline Kelly - CEO  
Lutheran Community Care Queensland**

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# **Lutheran Aged Care Australia**

Response to the Productivity Commission Draft  
Report, *Caring for Older Australians*

March 2011



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## Introduction

The Board for Lutheran Aged Care Australia Care (BLACA) considers that the Productivity Commission has developed an effective overall blueprint for the future of aged care.

This blueprint strikes an appropriate balance between the competing legitimate interests of the main stakeholders in an environment of high stakes. This framework would deliver substantial improvements to the aged care system for consumers, providers and the government. It successfully addresses the three key themes of the Campaign for the Care of Older Australians' *Grand Plan*: Choice, Access and Sustainability.

We particularly welcome the development of a framework that is capable of managing the care and support requirements of the ageing population well into the future. We reject the notion of further short-term, piecemeal fixes to an essentially unworkable system which has been the characteristic of policy changes in recent years.

We recognise that the Productivity Commission plan consists of many interlocking and mutually supportive elements. We would be concerned if there was any attempt to "cherry pick" fundamental aspects of these proposals by particular stakeholders. There will be some costs for all parties but these will need to be accepted if the gains of the overall package are to be realised. Selecting only the elements favourable to a party, whether that be government, consumers or providers, and rejecting the costs, would undermine the integrity of the overall proposal.

We are particularly pleased to see that the Commission has recommended a substantial transition period for the changes to be fully introduced given the scale of the changes and the number of detailed issues to be worked through. This will minimise the risk of unnecessary disruption to the industry and the prospect of unintended negative consequences.

This submission does not comment in detail on each recommendation or issue mentioned in the draft report. Instead, we will primarily address those matters that we consider have the capacity to weaken the effectiveness of the overall package. The main areas on which we have made comment are:

- Supported residents in residential aged care
- The Australian Seniors' Gateway Agency
- Paying for accommodation and
- Appeals.



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## Recommendations supported

Before examining the areas where we consider change to the Productivity Commission draft report would be beneficial, we wish to record our support for the vast majority of recommendations.

We particularly welcome the articulation of guiding principles to shape the development of the system for the delivery of aged care. These principles align well with those outlined in the document prepared by the National Aged Care Alliance entitled *Leading the Way: Our Vision for Support and Care of Older Australians*. They address the perspectives of consumers, informal carers, service providers and society at large. The principles can serve as a yardstick against which proposals to modify the Commission's recommendations can be assessed as well as any changes to the aged care system in years to come.

In particular, we endorse the following recommendations:

- The establishment of the Australian Aged Care Regulation Commission separate to the Department of Health & Ageing with the functions as proposed
- The removal of regulatory restrictions on the number of community and residential places in a phased way
- The elimination of the outdated distinction between 'high care' and 'low care'
- The removal of restrictions on supplying additional services in residential aged care
- The move away from discrete community care packages (such as HACC and EACH) and the adoption of an integrated system of needs-based care options
- The freeing up of options for the payment of accommodation costs
- The introduction of a stop-loss limit on care costs at the same time as the introduction of co-contributions for care costs
- The creation of the Aged Care Equity Release scheme by the Commonwealth (as distinct from the existing reverse mortgages offered by banks)
- The creation of a mechanism to provide transparent advice to the Commonwealth on the costs of care, and the capacity to consider fair remuneration for sector employees in the costs of care calculation
- The application of equivalent funding for essential services such as palliation, regardless of the setting
- The expansion of skills development initiatives for the workforce
- The introduction of penalties that are proportionate to the degree of any non-compliance
- The streamlining of reporting to government



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- The proposal for COAG to work on the elimination of duplicate and inconsistent regulations
- A staged implementation of reforms over at least a five year period.

### **Supported residents in residential aged care**

We support some aspects of the proposals relating to supported residents but have concerns with other aspects.

We welcome the Productivity Commission's acknowledgement that there is an ongoing role for government in funding aged care for those who are unable to contribute financially to their own care and accommodation costs. Further we endorse the setting of supported quotas on a regional basis as this reflects the reality that socio-economic disadvantage is not evenly spread across the country.

In principle, we have no difficulty with the notion of trading the obligation to provide supported places. Trading would be likely to encourage specialisation which will add to meaningful choice.

We recognise that some consumer groups are concerned that trading of supported places may lead to the creation of a two-tier system. Our view is that the total blueprint will in fact provide a multi-tier system with considerable choice for consumers based on a wide range of factors relating to client needs, personal preferences as well as willingness and ability to contribute to the costs of aged care.

We strongly oppose the concept of tendering for the supply of supported places after a number of years. This would almost inevitably lead to a second rate service as providers cut more and more corners to push down costs in order to be successful in the tender rounds. We know that this would not be the intent, but it would almost certainly be the impact of this policy.

We also do not consider that a two person room with shared bathroom facilities is an acceptable contemporary benchmark for accommodation for supported residents. It does not represent current community standards, nor does it provide for appropriate clinical care for people affected by many of the conditions commonly suffered by ageing people. On the other hand, we recognise that there is a need to contain Commonwealth Government costs to ensure that the scheme is sustainable over time and in different fiscal circumstances.

*We recommend a standard for supported residents which allows for 75% of the supported residents to have single rooms with bathrooms shared between two residents, and 25% to be accommodated in two person rooms with a bathroom shared between those residents.*



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### **The Australian Seniors Gateway Agency**

We support the transfer of assessments to the Commonwealth and the strengthening of the collation and dissemination of information to older people and their families. We also endorse the use of common assessment tools across the aged care system.

We wish to stress that we consider it to be essential for the Australian Seniors Gateway Agency to be staffed by Commonwealth employees. We would oppose any outsourcing of this work (other than for reassessments) because of the conflict of interest that would occur if an organisation were both a Gateway Agency service provider as well as an aged care provider.

We consider that a major risk to the system will be if the arrangements for the *reassessment* of clients do not function efficiently. In the current system, we already have problems at the point of entry where Aged Care Assessment Teams are unable to undertake assessments promptly. This is the cause of distress for the older person and their family, and the source of uncertainty for an aged care provider which is willing to provide a place.

If these problems were carried into a system where reassessments had to be done by the Gateway Agency and similar backlogs occurred, the service providers would be in an extremely difficult situation. They would know about the increasing care need, be willing to provide for this need, but not be able to be recompensed for the cost of meeting this need. Changes in acuity are relatively common and a system that does not allow for rapid responses to these changes will quickly be disparaged by consumers and providers. We consider that this is an issue of system design, not only of implementation.

Further, in a residential aged care context in particular, the provider has an intimate knowledge of the individual's changing condition. It seems less than optimal to have reassessments conducted by the Australian Seniors Gateway Agency which will only have limited contact with the client.

*We recommend that routine reassessments be conducted by providers (who will be registered aged care providers) unless they have demonstrated a consistent incapacity to conduct unbiased assessments. A process similar to the current validations could be undertaken to test the appropriateness of reassessments.*

A further issue in relation to the Gateway Agency is its links with Medicare locals. We welcome the proposal for regional delivery of Gateway Agency services and suggest that this provides an opportunity for the boundaries to align as closely as possible to those of Medicare Locals. The aged care system is currently insufficiently linked to primary health care provision. These weak linkages contribute to poorer health outcomes for clients of the aged care system. Where feasible, it would also be advantageous to have alignment with Hospital networks.

*We recommend that the Gateway Agency boundaries align with those of Medicare Locals and where possible, Hospital Networks.*



### **Paying for accommodation within residential Aged Care**

We believe that the proposal to separate the costs of care, daily living expenses and accommodation is sound.

In principle, we are also comfortable with the recommendations relating to the establishment and publication of a daily fee for accommodation with the fee reflecting local circumstances, as well as the linking of a lump sum payment to the daily charge. We would prefer to see an acknowledgement that providers are permitted to have a range of daily fees for different room types and sizes.

Our main concern relates to the impact of this change on providers' cash reserves during the transition. In the new approach, there will be little or no incentive to pay lump sums and therefore there is likely to be a run down in cash reserves as new residents replace old. If there is a rapid turnover, aged care providers could be forced to borrow heavily (if the banks will lend) at what are likely to be high interest rates. This could place even otherwise very sound providers in precarious financial situations. At worst it could lead to the unnecessary failure of essentially high quality providers.

*We recommend that the Commonwealth, during the transition period only, provide funds on a loan basis at a reasonable interest rate to otherwise sound providers whose cash reserves run down quickly because of high resident turnover and a subsequent loss of bonds, or that the Commonwealth provide an alternative mechanism for addressing capital adequacy during the move to the new accommodation payment arrangement.*

### **Appeals**

We are concerned that the main channel of Appeal is to the Administrative Appeals Tribunal (AAT). This is considered to be a legalistic and expensive mechanism for addressing disputes. Although the AAT has an Alternative Disputes Resolution pathway, parties will already have committed to litigation before they gain access to this forum. We consider that it is preferable if the overwhelming majority of disputes be resolved without litigation in more informal settings provided by the Agencies themselves.

Further, the AAT is a particularly inappropriate forum for dealing with disputes relating to assessments of individual entitlement made by the Gateway Agency. An example of the latter would be where the person or the provider considers the Agency is not authorising a sufficient package of care. Other Tribunals such as the Social Security Appeals Tribunal (SSAT) have a relatively low cost, quick and informal modus operandi. SSAT also has expertise in dealing with appeals relating to individual entitlements.

*We recommend that appeals relating to individual assessments be directed to the Social Security Appeals Tribunal (SSAT). For other disputes, we recommend a well-resourced capability within the Agencies to divert disputes into mediation or conciliation before they reach the AAT wherever possible.*



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## **Other comments**

We also wish to make a brief comment on the following issues:

- It is well documented that the incidence of dementia is increasing within the community. Without a medical breakthrough to cure or significantly delay onset of dementia, this trend will continue. Residential aged care is likely to be dominated by residents with dementia. We would welcome stronger comment from the Productivity Commission in its final report about the significance and impact of dementia.
- The draft report suggests that non-care employees' wages and conditions in residential aged care would be more appropriately set by reference to the broader industries within which these roles could be classified. Non-care employees are integral to the delivery of the whole service. We consider that these employees should remain within the coverage of the Aged Care Award.
- We would welcome more detail from the Commission on how to ensure equity in rural and remote settings for both consumers and providers. Rural and remote services are subject to pressures not faced in most urban settings. For instance, it can be especially difficult to attract suitable labour in some areas. This trend is exacerbated if a particular service is in competition with the mining industry, which pays far higher wages than aged care, even for relatively low skilled positions. We consider that the government may have an ongoing role in providing special support to services in rural and remote areas.
- We are pleased that the Commission has proposed a framework which reduces regulation. Our view is that there needs to be a rigorous assessment of any residual regulation that cannot be justified in terms of direct benefits to clients. Regulation typically reduces innovation and can also have other perverse impacts. For instance, there is still a heavy burden of 'paperwork' for the regulators, sometimes prepared on a 'just in case' basis. Not only does this distract from resident care, it also reduces the attractiveness of aged care as a work environment at a time when more employees will be required by the system.
- We consider that regulatory restrictions on the provision of community places should be freed up as soon as possible and certainly during the first phase of the transition to the new arrangements.
- We have been extremely pleased with the consultative and open approach taken by the Commission to the development of the draft report and to the process of preparing its final report. We also acknowledge a similar approach by Minister Butler. We encourage the continuance of this engagement with stakeholders throughout the detailed planning and implementation of the transition to a new system.



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## **Conclusion**

We recognise that the current system of aged care is unsustainable. It is unaffordable for government, especially in the medium and long-term; it does not meet consumer expectations; and from the providers' viewpoint, it is chronically underfunded and over-regulated.

The Productivity Commission's draft report outlines a predominantly appropriate and well-integrated response to the problems of the current aged care system.