



PRODUCTIVITY COMMISSION
Annual Review of Regulatory Burdens on Business
Social and Economic Infrastructure Services

Submission by IRT

July 2009

DRAFT RECOMMENDATION 2.1

To enable the Australian Government to reduce the burden associated with regulation and price controls, and to improve the quality and diversity of aged care services, it should explore:

- *options for introducing more competition in the provision of aged care services*
- *removing the regulatory restriction on bonds as a source of funding for high care facilities.*

The first section of this recommendation has tentative support.

While from a business perspective, service will develop where commercially viable the commercial driver should not be the sole reason for service development. The motivator to provide care and support for ageing Australians is **paramount**.

It is considered that regulation would still be required to register providers in order that they are deemed eligible to receive Government support. It is submitted that one of the required criteria would be to satisfy Corporate Governance requirements so that residents' security of tenure is protected. This would protect against similar situations that was recently experienced in the child care industry.

If the supply of aged care places is unrestricted and deregulated, a range of parameters need to be in place to protect vulnerable populations through the provision of safety net arrangements.

The current restrictions on charging bonds for high care substantially reduce the potential for providers to raise the necessary Capital to improve current facilities or to build additional care places.

The duplication of two assessments, the initial ACAT and then the ACFI assessment to determine the low or high care status of the resident is often at odds and is further complicated by the current inability to charge a bond for high care residents.

The anomaly of direct admission of high care residents into pre-1997 and post 1997 low care places should also be removed.

Removing the regulatory restriction on bonds for residents classified as high care is supported.

DRAFT RECOMMENDATION 2.2

Contingent upon the introduction of more competition in the provision of aged care services outlined above in Draft Recommendation 2.1, the Australian Government should abolish the ‘extra service’ residential care category. In the interim, where there appears to be unmet demand for such ‘extra service’ places in a particular region, the Department of Health and Ageing should consider freeing up the regional cap subject to the requirement that there is not an unreasonable reduction of access for supported, concessional or assisted care recipients.

Extra service is predominately utilised as a way to charge a bond for high care.

Extra service has effectively reduced the availability of concessional or assisted residents. Eliminating the regulatory restriction on high care bonds eliminates the need for extra service to be an avenue to charge a high care bond.

While additional daily services may be provided for many extra service approvals the service provided is the same or minimally different. Many providers discount the additional daily fee such that fees are the same as the regular daily fee as extra service is primarily about charging high care bonds.

Draft recommendation 2.2 is supported.

DRAFT RECOMMENDATION 2.3

The Department of Health and Ageing should conduct a publicly available evaluation of the current police check requirements to explore whether the benefits of the existing regime could be achieved in a less costly manner.

Police check compliance is time consuming, inefficient and expensive. Direct cost to IRT is approximately \$20,000pa plus internal management time.

A similar system such as the central database for example the “Blue Card” used in child care in Queensland needs to be explored for aged care or a system utilised in-conjunction with the child care industry as both industries have similar requirements.

The recommendation to evaluate the current police check requirements is supported.

DRAFT RECOMMENDATION 2.4

The Aged Care Standards and Accreditation Agency should redesign the unannounced visit program using a risk management approach that focuses on under-performing aged care homes. The current performance target of at least one unannounced visit per home per year should be abolished and the overall number of visits (including announced and unannounced visits) should be reduced.

Duplication of review processes through unannounced visits is inefficient and not effective for services that have a sound track record. IRT has several examples of unannounced visits that have occurred within six (6) weeks either side of a full 3 year scheduled review. In all circumstances, there has been continuing full compliance with 44 outcomes.

It is important that there is a common understanding of what Department of Health and Ageing and The Agency believes a “risk management approach” is, and some transparency regarding the method of prioritisation risk. In particular, risks having a real or potential impact on the safety and wellbeing of residents should be prioritised over technical administrative “breaches”.

As the “Report into the Operations of the Aged Care ACT 2007-08” identified that 98.4% of aged care homes were fully compliant an improved process built around a risk management approach for homes of concern is supported.

DRAFT RECOMMENDATION 2.5

The Accommodation Bond Guarantee Scheme ensures the refund of accommodation bonds to aged care residents in the event that a provider becomes insolvent. Given this Government guarantee to residents, the Australian Government should amend the prudential standards to remove the requirement on aged care providers to disclose to care recipients or prospective care recipients:

- a statement about whether the provider complied with the prudential standards in the financial year*
- an audit opinion on whether the provider has complied with the prudential standards in the relevant financial year*
- the most recent statement of the aged care service’s audited accounts.*

This recommendation is supported as the current requirement of prudential statements, audit and copies of information to care recipients is a duplication of bond guarantee refund through the Government guarantee scheme.

DRAFT RECOMMENDATION 2.6

The Australian Government should amend the Residential Care Subsidy Principles 1997 to remove requirements on aged care providers to lodge separate written notices with the Secretary of the Department of Health and Ageing demonstrating compliance with Conditional Adjustment Payment reporting where such information is accessible from documentation already provided to the Department.

Additional CAP reporting requirements duplicating information already supplied is inefficient and redundant. While beyond the scope of this review, duplicated reporting requirements to State funded programs need to be streamlined e.g. HACC funded services.

This recommendation to remove separate duplicated reporting requirements is supported.

DRAFT RECOMMENDATION 2.7

The Commonwealth, state and territory governments should resolve any outstanding issues with the proposed community standards and reporting processes and implement the National Quality Reporting Framework as soon as possible, consistent with the methodology and principles supporting Standard Business Reporting.

It is submitted that this recommendation should be extended so that there is a standard quality reporting framework that is the same for residential and community services.

DRAFT RECOMMENDATION 2.8

The Australian Government should introduce amendments to the Age Care Act 1997, and Aged Care Principles as necessary, to provide a clearer delineation of responsibilities between the Department of Health and Ageing and the Aged Care Standards and Accreditation Agency regarding monitoring of provider compliance with the accreditation standards.

Review and reporting processes between the Department of Health & Ageing and the Aged Care Standards & Accreditation Agency is often duplicated. This is substantial in the event of a complaint or a significant resident incident.

The Department refers to the Agency, and then the Agency refers back to the Department. Reviews, reports and replies come to and from both.

When the Office of Quality and Compliance was formed, the aged care industry was assured by representatives from “the Office” that unnecessary referrals to The Accreditation Agency would not occur, but this has not been the experience.

The real issue is when an incident occurs just what is each agency investigating? The Office (Department of Health and Ageing) is investigating whether the approved provider is complying with the Aged Care Act. The Accreditation Agency is investigating compliance to the accreditation standards. The Police (if they determine and have the resources to conduct an investigation) is determining if a criminal act has occurred.

This is a duplication of Government resources and a doubling up of the provider’s time involved in interviews and report writing.

This recommendation to amend the Act and provide a clear delineation of responsibilities between the Department and the Agency is supported.

DRAFT RECOMMENDATION 2.9

When a provider has notified police concerning a missing resident it must also contact the Department of Health and Ageing. Reporting to the Department is primarily concerned with addressing longer term systemic problems that may be contributing to residents going missing. The Australian Government should amend the missing resident reporting requirements in the Accountability Principles 1998 to allow providers to report to the Department on missing persons once every twelve months (including any action taken). It should also be stipulated that those homes where more than a threshold number of residents have been reported missing need to inform the Department at the time this threshold is exceeded. This recommendation would not impact on the reporting of missing residents to state police services by providers.

An aged care home is “home” for residents and the role of the provider is to encourage independence and freedom and not to confine residents unless they require secure accommodation. On occasions a resident may become disorientated while away from the home or may have an acute episode (e.g. urinary tract infection – UTI) that may affect their orientation. Sometimes, such residents may need to be reported to the police for assistance to locate them for their safe return to the facility.

The newly introduced Legislation requires this to be notified not only to the police but to the Department of Health & Ageing who then launch an investigation. Often this leads to a referral to the Accreditation Agency who then conducts their own review with the previously mentioned duplicated reporting processes.

The compulsory reporting is excessive and is highlighted in the following example that occurred at an IRT facility:

A resident was noted missing in the morning prior to breakfast. Following a search of the facility and immediate surrounds he could not be located. As per procedure the Village

*Manager was informed and the police notified. As the internal search widened, the resident was found in the grounds of the facility near an independent living unit in the greater part of the village. **He was found prior to the police arrival at the facility.** He had sustained an injury and an ambulance was called for hospital transfer.*

As per requirement, the incident was reported to the Department of Health & Ageing. An investigative visit followed. A referral was made to the Accreditation Agency who also subsequently visited the facility. Reports went to and from the Department to the Agency and from the provider. Neither breaches nor non-compliance were found. This was a waste of everyone's time and resources.

While the recommendation is supported, it is suggested that in the event of a resident going missing that related in resident death or unable to be found within 36 hours then this must be reported to the Department of Health & Ageing.

DRAFT RECOMMENDATIONS 2.10, 2.11 & 2.12

The Department of Health and Ageing, in consultation with relevant state and territory government departments, should use current reviews of the accreditation process and standards to identify and remove, as far as possible, onerous duplicate and inconsistent regulations.

The Australian Government should abolish the annual fire safety declaration for those aged care homes that have met state, territory and local government fire safety standards.

The Department of Health and Ageing should submit a Proposal for Change to the Australian Building Codes Board requesting the privacy and space requirements contained in the current building certification standards be incorporated into the Building Code of Australia. Newly constructed aged care facilities would then only be required to meet the requirements of the Building Code of Australia. Once all existing residential aged care facilities have met the current building certification standards those standards should be abolished.

Duplicated standards, reporting processes and compliance requirements over three (3) tiers of Government are often inconsistent in their processes and standards.

Accreditation Agency Assessors are often requesting and commenting on detail of other compliance systems which is outside the scope of their role, and often their individual expertise.

Eliminating this duplication would provide efficiencies for the provider and produce savings for the public purse. Examples include:

1. Food Safety
 - HACCP requirements, Australian & New Zealand Food Standards

- NSW Food Safety Authority registration and audits for vulnerable populations
 - Local Government Health regulations for food outlets
 - ACT Government for registration of food premises for aged care facilities
 - Aged Care Standards & Accreditation Agency – outcome 4.8.
2. Building Code of Australia
 - Building certification processes with many inconsistencies between the interpretations
 3. Fire declarations and reporting processes at each Government tier
 - Commonwealth
 - State
 - Local Government
 - Separate review by the Agency – outcome 4.6
 4. Infectious diseases outbreaks
 - Reporting to the Department of Health & Ageing who then refer on to the Accreditation Agency
 - Reporting to the State & Territory Health and complying with their processes including local area health liaison
 - Separate review by the Agency – outcome 4.7
 5. Occupational Health & Safety
 - Compliance with State and Territory laws and subject to their review process
 - Separate review by the Agency – outcome 4.5

Compliance with one level of Government should be automatically accepted by other levels of Government. The production of a relevant certificate of compliance should be all that is required. Recommendations 2.10, 2.11 and 2.12 are supported.

DRAFT RECOMMENDATION 2.13

The Australian Government should allow residential aged care providers choice of accreditation agencies to introduce competition and to streamline processes for providers who are engaged in multiple aged care activities.

IRT's accreditation fees over a 3 year period are approximately \$190,000. With the current single no choice system for accreditation there are no options for fee negotiation or with choice of Assessing Agency. The provider has no "buying power".

IRT supports an accreditation process for the industry but submits that:

1. There should be choice of accreditation agencies
2. There should be the same accreditation system that applies across residential and aged community care programs e.g. CACP, EACH and HACC.

The recommendation to allow choice of accreditation agencies, introduce competition and streamline processes for providers with multi aged care programs is supported.