Report of the Legislated Review of Aged Care

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In brief

An aged care system which is both effective in supporting older Australians and sustainable into the future, is a crucial social policy objective. The tabling of the report of the independent reviewer into the effectiveness of the Living Longer, Living Better reforms (**LLLB Reforms**), David Tune AO PSM, in September 2017 (**Report**) is the next step in the ongoing reform of Australia's aged care system.

The Report concluded that the LLLB Reforms have resulted in a more consumer driven and sustainable system, although there is further work to be done. Across 38 recommendations the Report provides recommendations on, amongst other things, moving closer to a true market-based system, improvements to the sustainability of system funding and areas for consideration by the upcoming taskforce, to be chaired by Professor Pollaers, to develop an aged care workforce strategy.

The Government is presently considering the recommendations of the Report, although importantly Ministers Hunt and Wyatt have already ruled out two recommendations to promote greater user contribution; inclusion of the value of a person's home in administering the means test for residential care and the abolition of lifetime caps on user contributions.

We briefly survey some of the key recommendations of the Report with a focus on aged care market structure, consumer contribution and workforce issues.

In detail

Background

The LLLB Reforms were implemented with the passing of the Aged Care (*Living Longer Living Better*) *Act* 2013 (Cth) (**the Act**) and constituted a comprehensive response to recommendations made by the Productivity Commission in its 2011 report *Caring for Older Australians* (**PC Report**). The Productivity Commission made a range of recommendations in the PC Report including recommendations relating to system funding, access and quality of care, workforce issues and regulatory structure. Not all of these recommendations were implemented as part of the LLLB Reforms.

The Report is the outcome of an independent review of the operation of the amendments introduced by the Act, as mandated in the Act. The Report contains 38 recommendations across a range of areas, including market dynamics, system funding and sustainability, equity of access and workforce issues. The Government is considering the recommendations, although it has ruled out adoption of two of the more contentious recommendations made to promote greater user contribution to the system, as noted below.

Australian Aged Care System

The expression 'aged care' covers a broad range of activities designed to support older Australians, much of which is provided on an informal basis by friends, family and volunteers, with more formal support provided by government-funded care, which is the focus of the review and this paper.

Chapter two of the Report provides a useful overview of the formal aged care system, noting that it is accessed by around 1.3m people, divided into three broad categories:

- home support - accessed by 925,000 people
- home care services - accessed by 90,000 people
- residential care - accessed by 235,000 people

It is estimated that approximately $20 billion in funding is provided to the formal aged care system each year, of which 75% is provided by the Commonwealth.

Like most developed countries, Australia faces a significant increase in the number of people aged over 65 and likely to access aged care services. The 2015 Intergenerational Report produced by the Commonwealth Treasury, cited in the Report, indicated that there were 3.5 million Australians aged 65 years and over, with that number predicted to rise to 9 million by 2054.

Market structure

The Commonwealth exercises significant control over the supply of aged care services through its control of the funding of residential aged care places and home care packages. This is primarily done through the administration of the Aged Care Provision Ratio (the **Ratio**) which sets a target (effectively a cap) on the number of funded aged care places for every 1,000 Australians aged over 70. Importantly, this approach enables the Commonwealth to manage growth in its expenditure on aged care services.

The Ratio was set at 100 upon introduction in 1985, is presently 113 and is due to reach 125 by 2021-22. Over this time the mix of aged care services included within the Ratio has changed. Initially it was simply split 60/40 between low and high level care, whereas the target for 2021-22 is 78 residential care places, 45 home care places and 2 restorative care places.

The Productivity Commission called for the removal of supply-side limits on residential and aged care places, in recommendation 8.1 of the PC Report. The LLLB Reforms were responsible for a significant increase in the Ratio along with growth in home care support and transition from funding providers to funding consumers, however the Commonwealth stopped short of full de-regulation, citing concerns about financial dislocation in the market and the ability of the sector to ensure provision of services to consumers in niche or otherwise less competitive markets.

The Report echoes the recommendation of the PC Report to continue to move away from a supply-constrained market towards one driven by consumer demand, although it identifies a number of conditions that must exist before supply can be 'uncapped', namely:

- accurate understanding by Government of underlying demand to be met by the system;
- equitable and sufficient contribution by consumers to the cost of their care;
- robust system of assessment of ongoing eligibility for government-funded care services; and
- equitable supply of care across different population groups and in settings lacking choice.

The Report concluded that these conditions had not yet been met and stated in Recommendation 2 that Commonwealth control of the number and mix of aged care places be retained into the medium term. The Report does, however, recommend that the supply controls should be changed in a number of ways:

- assigning residential care places to consumers, rather than providers under the current Aged Care Approvals Round system, reflecting a similar change in home care this year (Recommendation 3);
- increasing the proportion of home care packages that are in the high care (levels 3 and 4) and thereby reducing the proportion that are low care (levels 1 and 2) (Recommendation 5);
- temporarily increasing the availability of high level home care by re-allocating residential care places that are not presently used (Recommendation 6);
- introduce a new 'Level 5' home care package specification which facilitates consumers with high care needs remaining in their homes longer (Recommendation 7);
- move to change the denominator of the Ratio to track the cohort of Australians aged 75 years and over, to better reflect increased demand for care (Recommendation 9); and
- consider changes to the mix of places if the Ratio is changed per above (Recommendation 10).

The Report addresses both the immediate demand imbalance and the need for longer term flexibility in the system. In proposing temporary borrowing from residential care resources the Report is suggesting testing whether residential care demand is near to being met such that a condition for uncapping supply may be realised. Similarly the Report notes that the level 5 packages will test demand limits for home care.

In their press release on 14 September the Ministers for Health and Aged Care announced an additional 6,000 home care packages would be made available in response to the tabling of the Report, across all levels of care.

System funding and consumer contribution to care

Consumers of aged care services who receive Commonwealth subsidy are asked to make a financial contribution to the cost of the care as a necessary way of promoting the sustainability of the system. The income and in some cases assets of consumers are assessed to determine the level of contribution that must be made by the consumer (**Means Test**). The Means Test takes account of income of consumers in respect of home care packages and income and assets, in respect of residential care.

The LLLB Reforms simplified the Means Test by combining income and asset tests for residential care and introduced annual and lifetime fee caps for both home care and residential care fees. The Report notes that the LLLB Reforms had had the intended affect of increasing the consumer share of cost of care and accommodation, although the impact has been modest.

The Report found that charging of assessed income-tested care fees varies across providers, with some electing not to charge consumers some or all of the assessed fee. This could result in fewer services being provided to consumers or a lower level of care being provided than that for which they are assessed. The Report proposes in Recommendation 12 that this discretion be removed and that all providers be required to charge the full fee, in support of the principle that consumers who can afford to contribute to their care should do so, which underpins the future sustainability of the system.

The Report identified the capping of the value of the former principal residence in the Means Test for assessing residential care as a source of inequity in the system with the effect that:

- consumers whose home comprises a greater proportion of their wealth will contribute relatively less to the cost of care than a person whose wealth is represented in other types of assets, privileging one form of wealth over another, which could have particularly inequitable consequences for those who are unable to afford to own a home or made a choice to invest in other assets; and

- consumers with a more valuable home benefit more from the cap as a greater proportion of the value of their home remains untouched from the need to fund care costs, which could have geographical impacts - a home in a metropolitan area is likely to be worth more than a home in a rural or regional area, with the effect that the latter consumers are required to draw on a greater proportion of the equity in their home to fund care.

To address this issue, the Report proposed in Recommendation 13 that the full value of a consumer's home be included in the Means Test for residential care when there is no protected person in that home.

The obligation for consumers to contribute to care costs in home and residential care under the relevant Means Test is subject to an annual cap and a lifetime cap of $63,313.28. The Report indicates that only a small proportion of consumers of both home care and residential care were meeting an annual cap and once the cap system has been in place long enough to assess the lifetime cap it is expected that it will similarly only impact a small number of consumers.

The Report concludes that the beneficiaries of the annual and lifetime caps are likely to be only a small community of wealthy consumers who should continue to contribute to their care when they are able to do so. It proposes in Recommendation 15 that both the annual and lifetime caps on Means Tested fees in home and residential care are abolished.

In their 14 September press release the Ministers ruled out adoption of Recommendation 13 and 15 of the Report. No reasoning was provided by the Ministers for this decision, although it is clearly a sensitive topic which would have direct impact on some older Australians.

The amount of contribution consumers are required to make is an important policy lever and ruling out these recommendations necessarily reduces the options available to the Commonwealth to promote the sustainability and equity of the system. It may also cast doubt on the ability to achieve one of the pre-requisites for 'uncapping' of supply set out by the independent reviewer.

Workforce

The review considered the effectiveness of workforce strategies in the aged care sector. A snapshot of the aged care workforce is provided in Box 10.1 of the Report, drawn from the findings of the 2016 National Aged Care Workforce Census and Survey. The survey found that there are around 366,000 people working in the aged care sector, of whom 236,000 are employed in residential care and 130,000 are employed in home care and support services. The overwhelming majority of these people work as direct personal care attendants in residential care or as community care workers in home care.

	Residential Care	**Home care and support**
Proportion who are female	87%	89%
Median age	46 years	52 years
Proportion born overseas	32%	23%
Prevailing employment basis	78% permanent part-time	75% permanent part-time
Contract/casual staff	10%	14%

A striking feature of the snapshot is the prevalence of permanent part-time staff and the finding of the survey that, on average, the existing workforce would like to work more hours than currently. The survey also found a notable shift away from contract or casual employment arrangements since 2012.

The PC Report indicated that the aggregate size of the aged care workforce needed to grow to 980,000 by 2050 to meet expected demographic changes and the reduction in 'informal' carers. In this regard, the Report observes ABS data indicating that 420,700 primary carers (the 'informal workforce') care for people aged 65 years and over, a number of which exceeds the total 'formal' aged care workforce.

The Report identifies low pay within the aged care sector, when compared with other health professionals, as an enduring problem, noting for instance, a 10% difference between nurse wages in the aged and acute care sectors. The Report refers to the attempt by the Government to address this issue through the Workforce Compact initiative in the LLLB Reforms. The Workforce Compact provided 'workforce supplement' funding to aged care providers who agreed to provide wage increases of a particular size. The program was unsuccessful due to the deficit between the size of the supplement and the wage increases need to secure the funding.

The Government announced the convening of an industry taskforce to develop an aged care workforce strategy as part of the 2017-18 budget, with Ministers Wyatt and Hunt confirming that Professor John Pollaers would chair the taskforce in their 14 September press release.

The Report identifies a number of areas of concern that the task force should address in developing a workforce strategy for the sector:

- lower pay within the sector, when compared with other health professionals;
- lack of appropriate initial and ongoing vocational training programs to enhance workforce skills;
- need to promote greater participation in the sector by widening the recruitment pool and enhance recruitment and retention strategies, particularly in rural and regional areas;
- poor image and status of aged care work as an occupation; and
- impact of NDIS rollout on demand for workers with skills that are portable between the aged care and disability sectors and the opportunity for sharing skills, knowledge and opening career pathways, particularly in regional and remote areas.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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