

Terms of Reference

Review of the Commonwealth Government's regulatory activities applying to quality of care in aged care residential facilities

Purpose

In light of recent findings in relation to failures in the quality of care delivered at the Oakden campus of the South Australian Older Persons Mental Health Service, the review will examine and report, by 31 August 2017, on the Commonwealth Government's aged care accreditation, monitoring, review, investigation, complaints and compliance processes.

Background

The Makk and McLeay wards are part of the Oakden campus of the South Australian Older Persons Mental Health Service managed by the Northern Adelaide Local Health Network. The South Australian Government commissioned a review of the Oakden campus in December 2016 and the report (the 'Oakden report') was published on 20 April 2017. The report makes six recommendations which include decommissioning the campus. The SA Government has accepted all recommendations.

The Commonwealth Government provides aged care subsidy to the Makk and McLeay wards and the Northern Adelaide Local Health Network (the approved provider) is expected to comply with the Aged Care Act 1997. The Australian Aged Care Quality Agency conducted an assessment of the Makk and McLeay wards between 6-17 March 2017 and found non-compliance with the Accreditation Standards. The Quality Agency provided early information during the assessment and the Department imposed sanctions on 17 March 2017. The Quality Agency finalised the assessment and a Notice of Non-Compliance was issued by the Department for further failures.

The Commonwealth aged care regulatory activities as they applied to the Makk and McLeay wards apply to all Commonwealth-subsidised residential aged care facilities. It is important therefore to identify any deficiencies in the aged care regulatory system which might prevent the early detection, and swift remediation by providers, of failures in care such as those found to have occurred at Makk and McLeay. Noting that regulation sits within a framework of other supports for residents, such as advocacy and the support of family and friends, the community expects the Commonwealth's regulation of aged care to be able to assure it that people in residential aged care facilities are safe, well cared for and have a good quality of life.

Scope

The review is not a review of the care provided at the Makk and McLeay wards but of the relevant Commonwealth aged care regulatory processes. The review will examine and advise on:

- Why, prior to its sanction on 17 March 2017, Commonwealth aged care regulatory processes did not adequately identify the systemic and longstanding failures of care at the Makk and McLeay wards documented in the Oakden Report.
- What improvements to the Commonwealth aged care regulatory system would increase the likelihood of immediate detection, and swift remediation by providers, of failures of care such as those identified in the Oakden Report. This could include changes to:
 - the legislative framework for the provision of aged care in Australia, including the Aged Care Act 1997 and the Australian Aged Care Quality Agency Act 2013;
 - the administrative policies and approaches of the Department of Health, the Aged Care Complaints Commissioner, and the Australian Aged Care Quality Agency;
 - reporting requirements, whether voluntary or mandatory, for residential aged care staff and any other care professionals involved in the provision of care in a residential setting;
 - engagement between the Commonwealth aged care regulatory agencies and other relevant regulatory agencies including those administering healthcare standards.
- Any other matter that the reviewers consider relevant to the purpose of the review, including any other measures in addition to current statutory arrangements that may strengthen the protection of residents.

Having regard to recent findings in respect of the Makk and McLeay wards, the review will examine the processes managed by all Commonwealth agencies involved in regulating the quality of care in residential aged care facilities, as follows:

- the Department of Health
- the Aged Care Complaints Scheme, managed by the Department of Health until 1 January 2016
- the Aged Care Complaints Commissioner
- The Australian Aged Care Quality Agency.