Ageing and Aged Care

Australian Government
Department of Health

Improving Choice in Residential Aged Care – ACAR Discontinuation

Detailed Discussion Paper, September 2021

Contents

Introduction

This paper provides a detailed discussion of the key issues about Improving Choice in Residential Aged Care and includes a range of questions for you to answer. A summarised version is available at https://consultations.health.gov.au/ageing-and-aged-care/improving-choice-in-residential-aged-care, which includes the same discussion questions.

You can respond to the questions outlined in this paper by using the survey at https://healthau.au1.qualtrics.com/jfe/form/SV_ey851Bqfy0jFPme.

As announced in the 2021-22 Budget, Australian Government is investing $17.7 billion into an aged care reform package. These measures will produce a once in a generation reform of aged care, providing respect, care and dignity to our senior Australians. In response to the recommendations of the Royal Commission into Aged Care Quality and Safety's final report, the new aged care system will put senior Australians' needs first and deliver high quality and safe care.

As part of the aged care reform package, the Australian Government announced that no further Aged Care Approval Rounds (ACAR) would be held following the conclusion of the current round. Instead, from 1 July 2024 residential aged care places will be assigned directly to senior Australians, giving them more control to choose an approved provider that they deem is best able meet their care needs. Funding will continue to be paid directly to the person's single approved provider of choice.

Alongside the broader package of reforms, this will restructure residential aged care and generate a more consumer-driven market, where the success of individual providers will be determined by their quality and responsiveness to clients.

Consultation

The Department will undertake a range of consultation activities until the end of 2022, allowing the opportunity for all interested stakeholders to help guide these important reforms as they progress.

The scope of this consultation is not on the decision itself, but on how to design and implement the change in a way that best supports senior Australians and providers.

The first phase of consultation will focus on the key aspects of reform including the consumer journey through the residential aged care system, the roles and responsibilities for market stewardship, provider viability and transitional arrangements. Workshops will also be held with senior Australians, aged care providers, assessors, peak bodies, advocacy groups and other interested parties.

The Department invites feedback and ideas in relation to the issues raised in this paper.

You are encouraged to share your views, and provide the evidence and insights that underpin them by submitting a response to the survey via our consultation hub.

Submissions will be accepted until 14 November 2021.

Further opportunities will be provided later in the consultation phase for interested parties to provide views on more detailed design aspects, and to help guide the approach to transition and risk mitigation

Context

Aged care reforms

In response to the Royal Commission into Aged Care Quality and Safety's final report, the Australian Government has announced a wide range of reforms to ensure that the aged care system provides high quality and safe care for senior Australians. These reforms will create an aged care sector that: is simpler to navigate, with face-to-face support to find care; empowers senior Australians to make informed choices; is strongly regulated; is more transparent; makes sure providers are accountable; and values and grows the aged care workforce.

The reforms are focused around 5 pillars:

1. Home care – supporting senior Australians who choose to remain in their own home.
2. Residential aged care services and sustainability – improving and simplifying residential aged care services and access.
3. Residential aged care quality and safety – improving residential aged care quality and safety.
4. Workforce – supporting and growing a better skilled care workforce.
5. Governance – new legislation and stronger governance.

As part of pillar 2 (Residential aged care services and sustainability) the Aged Care Approval Round (ACAR) will be discontinued and a more competitive market will be introduced by allocating residential aged care places directly to senior Australians.

The removal of the ACAR is one mechanism that will contribute to a better residential aged care system that meets consumer expectations and delivers high quality care. This change will be considered alongside other key reforms to residential aged care, including the introduction of a new funding model, the Australian National Aged Care Classification (AN-ACC), additional funding for more face-to-face care, more support for people to select a provider of choice, and new financial and prudential monitoring arrangements.

A summary of the key related projects is included at Attachment A.

Further information can be found at Aged Care Reforms.

The current approach

The ACAR is a competitive application-based process which enables existing or prospective approved providers to apply for an allocation of Australian Government-subsidised places.

Places under the ACAR are allocated on a provisional basis until a provider is ready to deliver care, at which point the provider seeks approval from the Department of Health (the 'Department') to make the place operational. On average, providers take 4.3 years to make a place operational. After six years the provisionally allocated places can be revoked.

Providers may also obtain places via a transfer of places from another provider (sometimes at a cost) or from the acquisition of another provider. The Department has the power to veto any proposed transfer.

The ACAR has been run five times in the last eight years, during which time over 53,000 new places have been allocated. The most recent ACAR closed in March 2021, with 4,098 residential places allocated on Friday 30 July 2021. This was the last round to allocate permanent residential aged care places before a new system is implemented in 2024. From this time permanent residential aged care places will be allocated directly to senior Australians.

At 30 June 2020, there were 31,234 provisionally allocated residential aged care places and 217,145 operational places. At the same time there were 2,722 residential aged care services, operated by 845 approved providers.

During 2019–20, 244,363 people received permanent residential aged care. The average age (on entry) was 82.5 years for men and 84.8 years for women. The average length of stay in permanent residential care was 35.3 months. On 30 June 2020, there were 183,989 people receiving permanent residential care.

Separate arrangements will be implemented to allocate capital grants and Short-Term Restorative Care (STRC) places which were previously allocated through the ACAR. Access arrangements for residential respite will also be changed and will form part of the new support at home program (refer to Attachment A for further information).

The case for change

The current ACAR process does not support a consumer driven market. Consumers who are assessed as having a need for residential aged care are only able to access care from a provider with an available ACAR place. If there are no available places at a consumer's preferred aged care home, they may need to wait on individual provider queues. Alternatively, they may need to accept a place with a non-preferred provider. This disempowers consumers and their families by limiting choice.

The major beneficiaries of the current approach are providers with an allocation of places, some of whom may be offering comparably lower quality care, or care that is less tailored to the specific needs of their clients. At the same time, ACAR rounds were only held every one or two years, which made it difficult for new providers to enter the market. Existing high-quality providers also faced barriers to expanding their service footprint to meet consumer demand.

Concerns have also been raised that the current ACAR application process focusses on current models of care and that it reinforces the stereotype 'nursing home' accommodation and care perspective rather than actively encouraging providers to develop innovative service delivery or business models. Providers have also advised that business planning and investment decisions are challenged by the uncertainty of the timing, scale and targeting of ACAR processes and lack of transparency of outcomes.

Several reviews have supported discontinuing the ACAR, in favour of allowing more choice and control for consumers. This includes the Legislated Review of Aged Care 2017 (Legislated Review), the 2020 Impact analysis: alternative models for allocating residential aged care places (Impact Analysis) and the Royal Commission into Aged Care Quality and Safety (Royal Commission).

Legislated Review of Aged Care 2017 (Legislated Review)

- As soon as possible, the government should discontinue the Aged Care Approvals Round for residential care places, instead assigning places directly to the consumers within the residential care cap, with changes to take effect two years after announcement by Government - Recommendation 3.

http://www.health.gov.au/resources/publications/legislated-review-of-aged-care-2017-report

The 2020 Impact Analysis: alternative models for allocating residential aged care places (Impact Analysis)

- Discontinuing the ACAR and assigned subsidised places directly to eligible consumers would be consistent with ongoing reforms, namely that aged care services should be consumer driven, market based, equitably and sustainably subsidised and proportionately regulated.
- https://www.health.gov.au/health-topics/aged-care/aged-care-reforms-and-reviews/impact-analysis-of-alternative-arrangements-for-allocating-residential-aged-care-places

Royal Commission into Aged Care Quality and Safety

- A new aged care program should be implemented with genuine choice and flexibility accorded to each individual about how their aged care needs are to be met (including choice of provider and level of engagement in managing care, and appropriate and adapted supports to enable people from diverse backgrounds and experiences to exercise choice) - Recommendation 25e
- https://agedcare.royalcommission.gov.au/publications/final-report

Discontinuing the ACAR and allocating residential places to consumers will allow the market to better adapt to consumer preferences and is expected to drive improved innovation and quality through greater and more direct competition.

Research indicates that in most situations, systems that incorporate substantial elements of choice and competition have the best prospects of delivering a good local service[1]. Informed choice improves outcomes for users because it:

- empowers people to have greater control over their lives
- enables people to make decisions that best meet their needs and preferences
- generates incentives for providers to be more responsive to users' needs
- drives innovation and efficiencies in service delivery.

The new system will require strong measures to provide people with meaningful and accurate information to support informed decision making and to realise the benefits of choice and control. This will be achieved through a range of reforms including the introduction of a new star ratings system.

[1] Le Grand, J. (2007). The other invisible hand: Delivering public services through choice and competition. Princeton University Press

The benefits of consumer choice and control have been demonstrated in the home care package reforms, with research indicating that 66 per cent of consumers were able to enter into a home care agreement with their preferred provider[2]. There were also positive attitudes around personal control and choice, including in relation to the selection of a provider in their area. Similar benefits have been achieved within the National Disability Insurance Scheme (NDIS), with an independent review in 2018 finding that the NDIS is leading to improved satisfaction with choice and control - both over what supports are received and where these are obtained - for the majority of participants[3].

However, it is acknowledged that the residential aged care system is not a fully functioning market and that services in certain places and for certain groups of people often lack viable market forces to ensure good services are available. Market forces cannot be relied upon by themselves and it is important not to apply a one-size-fits-all approach.

The new system will require a strengthened stewardship role by Government to address these risks. This will include regulating providers, supporting access to suitable care, and mitigating the risks associated with the removal of the ACAR. Residential aged care supply will also need to be monitored to ensure that demand can be met, including the consideration of ageing infrastructure (and consumer preferences), noting that under the current settings the number of operational places are likely to exceed or match demand for residential care until at least 2040.

Providers will no longer be dependent on obtaining places through the ACAR process which will reduce red tape and allow them more control over their business decisions, including where to operate and how many people to offer care to. They will be able to compete on price, quality and innovation in models of care and accommodation to attract consumers. This will strengthen the residential aged care market by allowing new providers to enter and supporting existing high-quality providers to expand their service footprint.

Funding will continue to be paid directly to a person's single approved provider of choice.

Based on the findings of the Impact Analysis, the removal of the ACAR is likely to require providers to restructure their business models to operate in a competitive market and meet consumer preferences.

Whilst most providers are expected to adapt positively, some providers may require additional support to navigate these changes. For example, some providers may be required to manage the removal of bed licences. Others may be concerned that there may be less certainty of occupancy in highly competitive markets, which may in turn impact their viability. The Government have announced several related measures to manage these concerns, many of which are discussed further within this paper. The Department will continue consultation through to the end of 2022, as well incorporating relevant feedback from the other consultation processes that may occur in parallel on related policy issues.

[2] AMR. (2019). My Aged Care Evaluation - Wave 3, Summary of Findings. https://www.health.gov.au/resources/publications/my-aged-care-wave-3-research-summary-of-findings

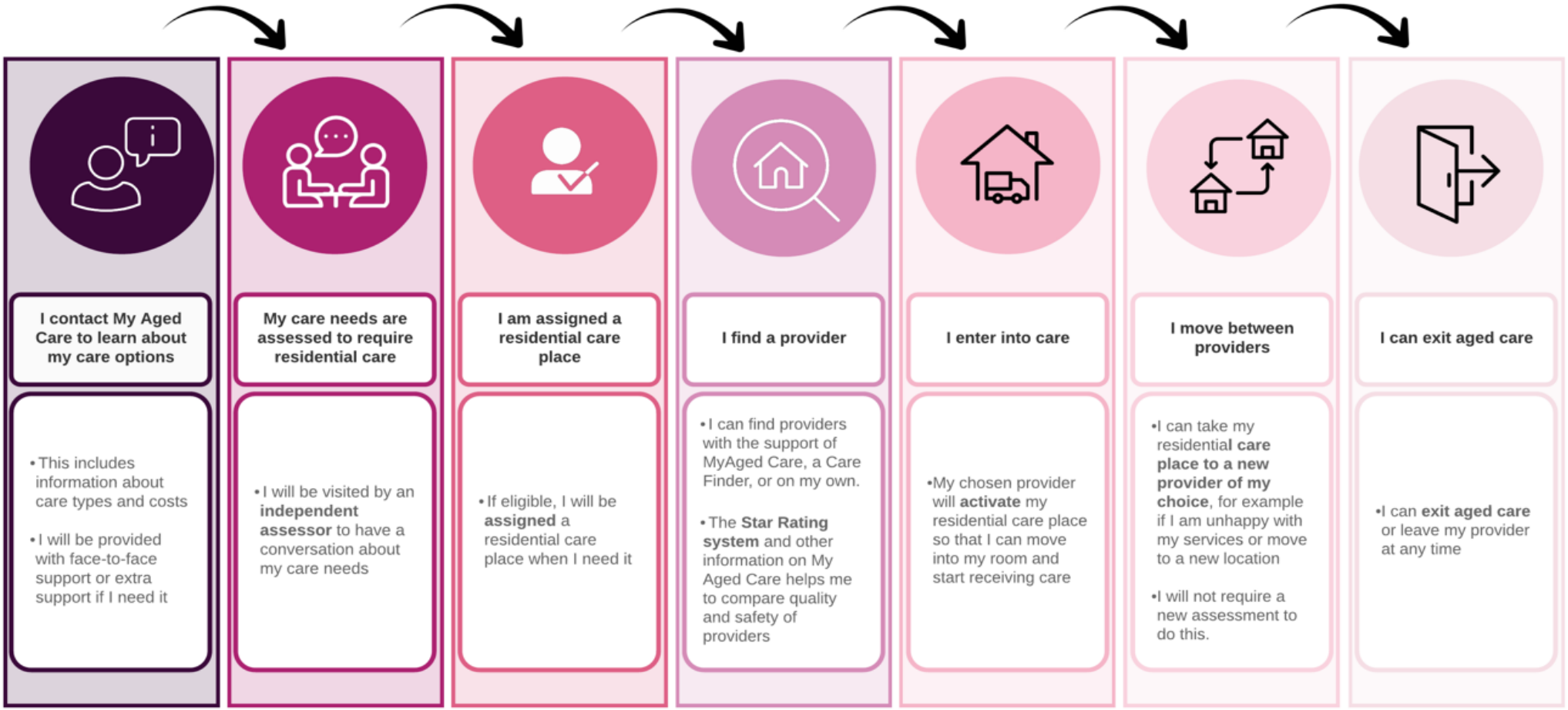
[3] National Institute of Labour Studies - Flinders University Adelaide. (2018). Evaluation of the NDIS - Final Report.

Policy outcomes

A new system will be implemented to meet the following policy outcomes, alongside other reforms.

- Senior Australians who need residential aged care will have the choice to enter into care with an approved provider that they judge best meets their needs.
- Senior Australians will receive simple information to make more informed decisions about who delivers their care.
- Entry to residential aged care will be straightforward - Senior Australians will be able to enter residential care when they need it.
- Providers will be responsive to the needs of senior Australians and will have an incentive to deliver high quality and more innovative models of care.
- Existing and new providers will have greater control over their business planning and investment decisions. They will have the flexibility to offer services in more locations, and to care for more people.
- There will be reduced administrative burden for providers.

The consumer journey



Aged care assessments

Access to residential aged care will be determined by an independent assessment of consumer need. People will receive care when they need it and will be supported to make informed choices and move providers if they want.

Under current arrangements, eligibility to receive residential aged care is determined through an aged care assessment undertaken by an Aged Care Assessment Team (ACAT). Once found eligible, a person is required to find a provider with an available ACAR place.

New aged care assessment arrangements will be introduced prior to 2024, including the development of new assessment tools which will better assess a person's current and future needs and determine whether they are eligible for residential aged care or support at home services. Recommendations may also be given to access other supports. People will receive a plan that is personalised to address their needs. Some people will be found eligible for both residential and support at home services, and may need to choose between staying at home, or moving into an aged care facility.

The new arrangements will also include a dedicated Aboriginal and Torres Strait Islander assessment workforce to help to increase the proportion of Aboriginal and Torres Strait Islander people in aged care, addressing historical low take up rates.

It is proposed that the new aged care assessment arrangements will consider how urgently someone needs residential care. This would consider:

- the persons health needs relative to other consumers
- their current care setting (including if they are in a hospital setting, or a setting that doesn't cater to their urgent health needs)
- the sustainability of their current supports (including formal and informal care and supports).

Consideration of urgency would be included in the assessment decision as guidance only. It would help providers and others (for example care finders) prioritise which people to assist first. However, it would not be used for the purposes of assigning residential aged care places. The intention is that everyone will get a place immediately following their assessment regardless of their urgency.

An indication of whether the person identifies with a special needs group[4] or has additional cultural or other special needs might also be considered as part of the assessment. This would also be used as a guide only, but it may help to identify the particular needs of certain groups as early as possible, allowing providers and others to cater for individual needs as part of the care offering. For example, identification of Aboriginal and Torres Strait Islander people would allow consideration of the importance of connection to Country which is vital to spiritual, emotional and mental health.

There will continue to be circumstances where people need to enter residential aged care in an emergency. As such, it is proposed that the current emergency access provisions will continue, which will allow people to enter into residential aged care in emergency situations prior to receiving an aged care assessment. In these situations an aged care assessment would be undertaken retrospectively.

The new assessment workforce will also undertake residential aged care funding assessments using a new funding tool. This assessment will take place after a person has entered care.

Further information on the new assessment arrangements can be found at Aged Care Reforms.

Assignment of places

The national supply of residential aged care places is expected to be above demand until at least 2040. As such, there are no plans to ration the assignment of places at a national level, and no intention to make people wait on a national or regional queue prior to receiving a residential care place (supply and demand is discussed in further detail below).

It is proposed that everyone that is approved for residential aged care would be automatically assigned a place. They would be free to use the place in any region with no time limits.

As outlined above, the aged care assessment may consider the urgency of the person's needs and whether they belong to a special needs group or have additional cultural needs. This could help guide providers and others (for example care finders) on who to assist first. However, this would not impact on being assigned a place i.e. everyone will get a place automatically regardless of their urgency or special needs.

[4] Special needs groups identified under the current Aged Care Act include:

- people from Aboriginal and/or Torres Strait Islander communities
- people from culturally and linguistically diverse (CALD) backgrounds
- people who live in rural or remote areas
- people who are financially or socially disadvantaged
- people who are veterans of the Australian Defence Force or an allied defence force including the spouse, widow or widower of a veteran
- people who are homeless, or at risk of becoming homeless
- people who are care leavers (which includes Forgotten Australians, Former Child Migrants and Stolen Generations)
- parents separated from their children by forced adoption or removal
- people from lesbian, gay, bisexual, trans/transgender and intersex (LGBTI) communities.

There is no intention to place time limits on the use of residential aged care places. This would be challenging considering the complex decisions involved in entering residential care, and the long timeframes taken for many people making this decision. There may also be situations where a delay in entry is outside the control of the consumer, and they shouldn't be penalised for this.

As is the case in the current system, providers would retain control of who they accept into care. It is expected that providers would continue to use their own intake and prioritisation approaches, supported by the information provided at the time of the care assessment, including consideration of urgency for care and special needs.

There is a risk that if providers prioritise people based on factors other than urgency, this may result in:

- reduced access for people with urgent needs
- people being required to move into less-preferred facilities and/or move to different locations, or
- prioritising people who are more desirable over others (for example, based on their care needs, circumstances and/or capacity to pay higher accommodation prices) leading to inequity of access, particularly in areas of limited supply.

However, these risks are expected to be low given there will be a more competitive market, where the supply of places is not limited by the ACAR and where providers will need to meet the needs of consumers in order to maintain (or increase) occupancy. The new residential aged care funding model will also help ensure the care needs of residents are adequately funded.

The new assignment system will be designed in a way that is as simple and seamless as possible for consumers and limits the administrative burden on providers. Further design work will be undertaken in this regard following feedback to this paper, including directly with consumers.

Areas of localised supply constraints

There may be localised situations where providers do not have enough spare capacity to meet local demand, regardless of how many places have been made available through the assignment system. Supply issues may be because there are not enough beds within a region, or as a result of other limiting factors such as workforce availability.

There may also be areas where the overall number of beds is adequate but where there is a shortage of providers catering to people with special and additional cultural needs.

This would be a significant barrier to choice and would force people to either wait for care, seek care with a less preferred (or a less culturally appropriate) provider or receive care away from their community.

The assignment system could be designed to partially address this issue. For example, places could be assigned according to priority within regions with limited supply. This would mean that those with more urgent needs and/or those with special or additional cultural needs would be given a place within the local region before others. This may help improve access for some people in the short term and incentivise providers to meet the needs of these groups. However, it would lead to the creation of a queue where other people would be forced to wait for the assignment of a package. This would limit their choice and control. It would also add a significant level of complexity as places would need to have geographical and time constraints.

Any mitigation through the design of the assignment system is also unlikely to address the underlying cause of localised supply issues, which is more likely to be a result of underlying viability issues. As such this approach is not proposed at this stage.

Local supply issues are best addressed through structural adjustment and better stewardship of the residential aged care market, including the range of measures discussed below. This includes a more open and competitive market which will allow providers to adjust and increase their market offerings to meet demand. The new funding tool (the AN-ACC) should also help to make the delivery of residential aged care more viable, especially in remote locations where funding will be based on the number of beds that a provider has made available, regardless of occupancy.

Under current arrangements, providers can apply via the ACAR for capital grants for building or upgrading residential aged care facilities. Capital funding will still be made available where needed, but will facilitated via a new process outside of the ACAR. Funding will be better targeted to areas of need, including where senior Australians currently have limited or no access to residential aged care services.

Supporting informed decision making by consumers

As outlined in the Impact Analysis, for consumer choice to be effective in any market-based environment, consumers must have access to meaningful and accurate information that allows people choose between alternative products or services and to reliably select the service that best meets their needs and preferences.

The ability to exercise choice is particularly challenging in residential aged care. Entry often occurs at a point of crisis, either through a person's adverse health event or a change in their care environment. The administrative and financial arrangements are complex and most consumers and their families or carers know little about the quality and cost of services and accommodation offered by providers. This is a new purchase experience and is unlikely to be repeated.

It is important to support informed decision making by providing consumers and their families with appropriate information, educational material and support in a format that can be easily understood.

Information is already provided in the current system to help people make choices. My Aged Care provides a range of information and support to help people find a provider to meet their needs. This includes a provider search function that allows people to find and compare residential aged care providers. Information is available on:

- whether the services can meet certain cultural needs and specialisations
- the different room types and costs
- if the service is meeting quality standards
- whether there are any compliance issues.

There are however limitations in the current system and the need for improvements were highlighted by the Royal Commission. In response the Government is implementing a number of important improvements, including those listed at Figure 1.

Increased support will allow people to make an informed choice of their residential aged care provider however this will be reviewed on an ongoing basis.

Figure 1: Supporting informed decision making

A face-to-face channel for My Aged Care

- The Government is providing funding to establish face to face support for senior Australians to access information about aged care services, navigate the aged care system, and connect to services tailored to their needs.
- Different levels of support will be provided to ensure people receive support commensurate to their needs. All General Service Officers (GSOs) in Services Australia service centres and call centres are being upskilled to have a basic understanding of Aged Care to be able to provide information and support.
- Face-to-face personalised support will also be available in 70 Services Australia service centres to help older people navigate and connect to government funded aged care services.

Navigation Support

- A network of Care Finders will also be established to provide specialist assistance to senior Australians who need intensive support to understand and access aged care services and could otherwise fall through the cracks. This service will also assist people to connect with other relevant supports, such as health and social supports, in the community.
- Implementation will occur progressively in stages, with personalised support in Services Australia being available from October 2021 and Care Finders commencing from January 2023.

Dedicated support for Aboriginal and Torres Strait Islander people

- A workforce of Indigenous people will be established to provide trusted face-to-face support and assist Aboriginal and Torres Strait Islander people to better navigate the system and access care.

Advocacy

- Additional funding is being provided to strengthen and expand the National Aged Care Advocacy Program to increase advocacy access, support and education. This will expand the total availability of advocacy support, including through increased physical presence in outer-metropolitan, rural and remote areas. Implementation will occur progressively in stages, commencing from 1 July 2021 with an evaluation and review of unmet need and demand.

Star Ratings

- Star ratings will be published on My Aged Care by the end of 2022, providing performance information for people seeking residential care. Star ratings will allow older people and their families to make meaningful comparisons of the quality and safety performance of services and providers, based on clinical and quality indicators, staffing levels, consumer experience, and service compliance ratings.

My Aged Care Enhancements

- The My Aged Care contact centre, website and new face to face service will continue to be enhanced to ensure they are consistent, accessible, inclusive, and provide reliable and usable information on aged care. This includes ongoing investment to improve the provider search functionality. Work will also be undertaken to independently verify provider claims to offer specific services to meet diverse needs, for example cultural and linguistic services, via the My Aged Care Find a Provider tool. This will improve consumer confidence that they are selecting providers that meet their specific needs.
- It is proposed that enhancements will also be made to allow people to identify the availability of beds with each provider.

More Transparent Accommodation Information

- It is proposed that a new residential aged care accommodation framework will be introduced that will provide more transparent information on the standard of accommodation being offered within each residential aged care home.

Entry into care

Under the new arrangements, people will have greater choice and control to take their place to an approved provider that they deem is best able meet their care needs.

Once a person has selected a provider of choice, they will finalise any ongoing arrangements directly with that provider, noting that many of these details will have been discussed as part of the provider selection process. Details will include the care and extra services they will receive, the type of room they will reside in, and the levels of contributions they will be required to make.

The provider will be required to inform the Government once the client has entered care. This will be done in a similar way to the current system and will effectively activate the client's assigned place.

A person will also receive an aged care funding assessment using the Australian National-Aged Care Classification (AN-ACC) to determine the amount of funding that the Government will contribute. A separate assessment may also be undertaken by Services Australia to determine the amount that the consumer will be required to contribute.

Government funding will still be issued directly to the provider on the resident's behalf.

Transferring between providers

Residents are free under the current system to move between aged care homes. They may choose to do this because they want to move closer to family and friends, or because a preferred home has become available.

The new system will better support people that wish to move as they will have control of their residential aged care place and will no longer be required to accept a home with a free place that has been allocated to the provider through the ACAR.

In designing the new system, it will be important to ensure that transferring to a new provider is made as easy as possible, while maintaining care continuity and minimising the risks to client safety. This may include consideration of handover protocols to ensure that important client information is made available, and rules on exit costs to ensure that providers don't introduce unreasonable fees which would limit portability (noting that exit fees are not currently a concept within residential aged care).

It is also important to recognise that moving between aged care homes is sometimes difficult or undesirable for people with complex health needs and limited mobility. As such, people who do not wish to move will continue to be supported by security of tenure requirements, which will provide them security over their place and ensure they won't be unreasonably asked to leave.

Questions

Question 1: Should aged care assessments consider the person's urgency for care?

Question 2: Should aged care assessments consider whether a person is from a special needs group or has additional cultural or other special needs?

Question 3: What should be considered when assigning residential aged care places? Should time or location restrictions be introduced?

Question 4: Could the assignment system be designed to mitigate localised supply issues?

Question 5: Are any additional measures or information needed to support informed choice?

Question 6: How can people be supported to move between aged care homes if they want to do so?

Market stewardship

The Government will need to have a strong stewardship role within a more competitive residential aged care market. This will include ensuring the delivery of safe and high-quality care, supporting the market to operate effectively, and ensuring sufficient oversight of providers.

An ongoing role for Government

It is acknowledged that in many ways the residential aged care system is not a true functioning market in all locations and that market forces cannot be relied upon by themselves.

The Royal Commission referred to the current aged care system as a quasi-market; defined as a 'set of market-based policies in social policy which are often underwritten by public money that introduces market based competition into contracting and/or individual budget arrangements'. They stated that quality cannot always be protected through consumer choice, because this choice can be limited when services are rationed and in short supply in some areas, and when senior Australians often access aged care in unplanned stressful circumstances, where decisions need to be made quickly.

It is also important not to apply a one-size-fits-all approach. Services in certain places, or for certain groups of people, may lack viable market forces to ensure good services are available. In regional, rural and remote areas, and even in more populated regions where there are fewer or no trusted organisations, there can be little to no market within which to make a choice about services. This is sometimes referred to as a 'thin market'.

The new system will require a strengthened stewardship role by Government to address these risks. This will include:

- Supporting consumers to make informed choices (as discussed above)
- Ensuring that providers deliver safe and high-quality care
- Monitoring supply and demand
- Ensuring access to residential aged care, including for people with special needs and additional cultural needs
- Strengthening the regional stewardship of aged care, including exploring and introducing alternative models of care (in collaboration with a range of local stakeholders) where there is a risk of market failure
- Making market intelligence information available to support provider decision making
- Supporting and monitoring provider viability, and managing sector rationalisation.

Ensuring quality care

The Government will continue to ensure the quality and safety of providers on an ongoing basis, including through the functions of the Aged Care Quality and Safety Commission (see below text box for further detail).

The discontinuation of the ACAR may require an adjustment to these approaches and there may be a need to consider whether the quality and safety functions should be expanded or redesigned to address any potential gap.

The role of the ACAR in regulating provider entry will cease. The current requirements for organisations to obtain ACAR places before delivering care provides a level of scrutiny on the quality of providers. For example, in allocating places the Department will consider the expertise and experience of the applicant, including (if relevant) its conduct as an approved provider and any sanctions or non-compliance.

It should be noted however, that the ACAR is limited in this role. It is primarily focussed on determining the number of new places that will be allocated, and where they will be targeted within geographic regions and for specific groups of people. A large part of the assessment is focussed on the capacity of the applicant to make the residential aged care places operational within a timely manner, giving regard to aspects such as land acquisition and planning approval. These factors are important, but don't go to the quality of the care to be delivered. In addition, the ACAR is a one-off process and many applications are for new developments that are unlikely to be built for several years. The checks and balances are also mainly focussed on existing providers, where information and data on the applicant's suitability as a provider of aged care is available.

Under the current arrangements, there also is an extra level of scrutiny applied via the requirement for providers to seek approval to make a provisionally allocated ACAR place operational. There is often a lengthy time period between the allocation of a provisional place and the commencement of care delivery. As such, when approving a place to be made operational, the Department assesses whether the facility is ready to take on clients. For example, they will check that relevant occupancy certificates are in place, and that the service is accredited. Regulatory functions, such as those undertaken by the Aged Care Quality and Safety Commission, could be strengthened to address any potential gaps created under future arrangements.

The structural adjustment that results from the discontinuation of the ACAR may also warrant an increased compliance focus. For example, the reduced barriers to entry may result in an increase in new entrants with limited aged care experience, or a significant expansion of services from existing providers.

Any risks associated with this will need to be managed, as outlined in the table below.

Quality and Safety Framework for Residential Aged Care

There is already a significant quality and safety framework in place for residential aged care, which includes:

- **Provider Approval** – Providers must be approved by the Commission to provide services. These arrangements will be strengthened as part of the new Aged Care Act, including to redesign approval requirements for all aged care providers to ensure their suitability, viability, and capability to deliver the kinds of services for which they are seeking to receive subsidies.
- **Provider accreditation** - Accreditation involves an assessment by the Commission of the provider's ability to meet the aged care quality standards. For a new service this accreditation must occur prior to care being delivered.
- **Assessment contacts** - Assessment contacts monitor the quality of care and services. New services will usually have an assessment contact within one to two months of consumers moving into the service. An unannounced assessment contact is also conducted annually for each provider.
- **Review audits** - Review audits include a full onsite audit of the aged care provider's compliance and tend to focus on providers that may not be meeting the required standards or have had a change in circumstances. Review audits may be arranged with or without notice. A review audit may lead to the provider's accreditation being revoked.
- **National Aged Care Mandatory Quality Indicator Program** - This program requires providers to report on pressure injuries, use of physical restraint, unplanned weight loss, falls and major injuries, and medication management.
- **Serious Incident Response Scheme** - The SIRS includes both incident management and reportable incident obligations to strengthen aged care systems and build providers' skills so they are more able to respond to incidents and provide aged care recipients with the support they need.
- **Certification of provider specialisation** - Work is being undertaken to certify providers where they offer specific services to meet diverse needs, for example cultural and linguistic services. This information will be displayed via the My Aged Care Service Finder and will help consumers to select providers that meet their specific needs.

Supply and demand for residential aged care

On a national level, the supply[5] of residential aged care places is expected to be greater than demand. This will allow the assignment system to be designed in a way that doesn't require people to wait for the assignment of a residential aged care place (see above).

The ACAR is the mechanism that the Government currently use to regulate the supply of residential aged care places. The number of places to be released is currently determined by the national aged care provision ratio, which has a target to provide 78 residential aged care places per 1,000 people aged 70 years and over.

Predicting the future demand for residential aged care is difficult and will be influenced by a range of factors, including the supply of other services (such as support at home services) and consumer behaviour. However, it has been consistency predicted that the supply of residential aged care will remain greater than demand over the next several decades.

Aged Care Financing Authority analysis

The Aged Care Financing Authority (ACFA) have projected the demand for residential aged care over the next 20 years, based on the current age-specific use and the current residential aged care target provision ratio.

ACFA project that the number of operational places is likely to exceed or match demand for residential care until at least 2040 (see graph below). This is because places are linked to growth in the 70+ population, which due to baby boomers entering their 70s, is growing at a faster rate than people who are currently using residential care, who are the 80 plus cohort of the population.

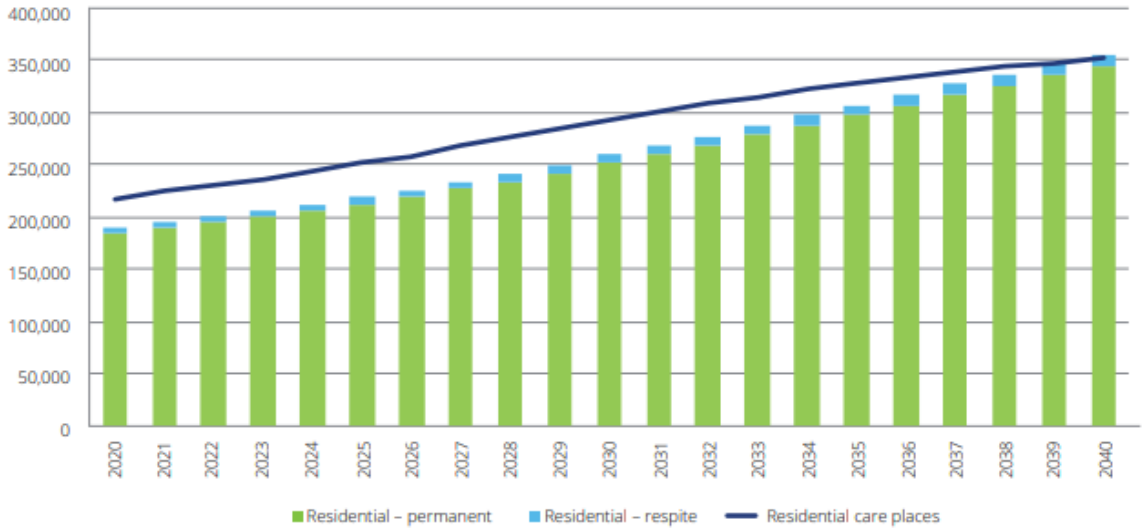
However, these projections are limited to residential care and do not take into account changes in consumer preferences and changes in modes of delivery of aged care. In particular, no account is taken of substitution between residential and home care.

ACFA found that as the amount of home care has expanded, there has been a reduction in the age-specific use of residential care. This would indicate that home care is substituting for residential care. It is not known what level of home care would be needed before all people who wish to remain in their home with a home care package can do so.

It should be noted that these projections do not take into account the additional support that has been included in the 2021-22 Budget to better support people to age at home, including the release of 80,000 additional home care packages over 2021-22 and 2022-23, and the design of a future single care at home program to be in place from 2023-24. It also does not consider that places may be taken offline for a period of time as existing infrastructure undergoes renewal and refurbishment. The Department will continue to monitor these trends in supply and demand over the transition period.

[5] In this context, supply refers to the number of residential aged care places that are made available by Government. The supply of places is primarily influenced by funding decisions. This is a different concept than the supply (or number) of beds that are made available by providers. The supply of beds is influenced by other factors such as provider business decisions, viability, and workforce availability.

Graph 1: Projected demand for and supply of residential care places, 2019 to 2040[6]



Royal Commission modelling

Deloitte Access Economics developed a detailed economic scenario model on behalf of the Royal Commission to consider the impact of policy change over the longer term[7]. This was presented relative to a baseline scenario defined by the assumption that current aged care policy will remain unchanged.

Under the baseline scenario the forecast for residential aged care recipients is substantially lower than the forecast Government provision of places by 2055 i.e. supply will be greater than demand. Noting that the baseline scenario should be viewed as a neutral reference case to be used to contextualise the impact of proposed policy changes, rather than an attempt to accurately forecast the future of the sector.

The paper also provided a model based on a number of reforms, including:

- Improvements to care quality, staffing and training
- Aspects of regulation and system navigation
- Availability of different types of care
- Health service provision
- Funding levels and allocation mechanisms

Under this scenario it was predicted that overall there would be a movement away from Residential Care and toward care in the community. Deloitte Access Economics predicted that the number of people in residential care would drop immediately as a larger number of potential new recipients choose to stay in community care and the sector faces significant workforce constraints in response to the implementation of mandated increases in staff time per recipient. The workforce constraint is rapidly unwound but the ongoing preference for HCP grows over time. It should be noted that the package of aged care reforms announced in response to the Royal Commission was different than the set of reforms modelled under this scenario.

[6] Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021

[7] Aged Care Reform: Projecting Future Impacts – Research Paper 11 – September 2020

Department of Health modelling

The Department have also undertaken separate modelling which considers the full range of measures announced in the 2021-22 Budget. This modelling makes similar conclusions as ACFA and Deloitte, and predicts that the supply of places under the current ratio will continue to meet demand over the next three decades.

Ensuring access to residential aged care, including for people with special needs and additional cultural needs

Although the supply of places is expected to be greater than demand, there may be localised situations where the availability of beds is limited.

This may be because providers have not built enough beds within a region or may be a result of other limiting factors such as workforce availability. There may also be groups of people who find accessing residential aged care more difficult than others, for example people from some special needs groups and those with additional cultural needs.

It is acknowledged that access is often limited because of viability issues in delivering aged care services to special needs groups, those with additional cultural needs and to people in regional and remote Australia. Challenges include high costs of delivering care that can limit the ability to invest in infrastructure, and workforce challenges that often undermine viability and continuity of care.

Conditions of allocation

The Government currently uses the ACAR process to address some of these issues and to target the provision of residential care to people with special needs, including people in rural and remote regions. This occurs through conditions of allocation, including those which require the provider to give priority of access to special needs or targeted groups. In recent ACARs, around 23 per cent of places have been allocated with specified priority of access for one or more special needs groups and around 31 per cent of places have been made in respect of key issue groups, the majority of which have a focus on dementia care.

Despite many places being approved with conditions of allocation, the current approach has limitations. A key criticism is that a conditionally allocated place is not quarantined for the target group, and pending demand it can be used by anyone. The Impact Analysis found no evidence to suggest that conditions of allocation are effective in supporting access for special needs groups. It further commented that the decisions of providers as to whether they operate in rural, remote and other challenging areas is much more dependent on whether they would be financially viable on a sustainable basis, rather than whether they were allocated places under the ACAR. Mandating that places be allocated to, and remain in, a location – irrespective of remoteness – does not ensure their construction and operation.

It is proposed that conditions of allocation be removed as part of the discontinuation of the ACAR. Access will instead be supported through a range of more targeted interventions that reflect the unique challenges of delivering care to special needs groups, those with additional cultural needs and to people within remote locations.

Targeted interventions

There will be additional investment in capital funding to make the aged care system more accessible for senior Australians with special needs and additional cultural needs. This includes Aboriginal and Torres Strait Islander people, those who are homeless or at risk of homelessness, and those living in regional, rural, and remote Australia.

Funding will enable aged care providers to make needed improvements to their buildings and build new services in areas where senior Australians currently do not have access, or where staff caring for their needs do not have suitable housing.

Providers that currently offer culturally appropriate care to Aboriginal and Torres Strait Islander people will be encouraged to expand into aged care service delivery.

There will be investment to improve Aboriginal and Torres Strait Islander consumer experience, uptake and access to aged care and disability services by procuring an Indigenous workforce to provide face to face support. This will assist 60,000 Aboriginal and Torres Strait Islander peoples to better navigate and access aged and disability care.

Existing programs such as the National Aboriginal and Torres Strait Islander Flexible Aged Care program, and the Multi-Purpose Services will also be expanded. This will include funding to ensure residential aged care consumers can stay connected to Country and culture, as well as meeting the travel costs of any people needed to provide clinical or other assistance to a resident.

Aged care service providers located in remote areas or who provide support to Aboriginal and Torres Strait Islander peoples will be given professional support to improve the organisations workforce capability and financial sustainability. This will be made available through an expansion of the Remote and Aboriginal and Torres Strait Islander Aged Care Service Development Assistance Panel.

The Government will also assist rural and remote aged care providers experiencing high turnover and sudden departures by expanding the Rural Locum Assistance Program to provide: access to a surge locum workforce for an interim period while recruitment is undertaken; assistance with recruiting permanent staff with the requisite skills and experience; and a new incentive scheme to increase the retention of permanent staff.

Evaluations of these measures will be undertaken to identify service gaps within regional, rural and remote Australia to assist with addressing areas of greatest demand. The above measures will make it more viable for providers to service special needs groups and operate in remote areas. Further detail on these measures can be found at Aged Care Reforms.

AN-ACC funding model

These investments coincide with and complement the rollout of the AN-ACC funding model.

The introduction of the AN-ACC funding model will deliver more equitable funding outcomes, particularly for remote, indigenous and homeless services. This should help address viability issues for these groups of people.

The AN-ACC funding model will better distribute funding based on evidence-based studies of costs associated with care for different residents. This will replace the current indexation arrangements and will ensure subsidies stay in line with cost structures of the sector.

AN-ACC Funding Approach

The new residential aged care funding approach will include base care tariffs that cover fixed care costs and capture those characteristics of the care facility that drive costs over and above the characteristics of the individual care recipients. This includes facility location and care specialisations.

In addition, Modified Monash Model (MMM) category 6-7 facilities will be funded on the number of beds they have, rather than how many are occupied. Noting that a new mechanism will be required to determine the number of 'beds' that a provider has in the absence of bed licences. This mechanism will be determined in the context of implementing the AN-ACC.

This will ensure funding is more equitably allocated, supporting in particular the provision of care in remote, Indigenous and homeless services.

As an example, a metropolitan facility specialising in homeless care would receive a base care tariff that is more than 85 per cent higher than a non-homeless service.

Further information on the new funding approach is available at Residential Aged Care Funding Reform.

Strengthening the regional stewardship of aged care

The Government is strengthening the governance of aged care by creating a local network of Department of Health aged care staff. This will enable a focus on improving senior Australians' local experience of aged care services and ensure that national planning and policy development is informed by an understanding of local issues and needs.

The local network will undertake a number of functions including:

- analysing local needs, and identifying areas with limited supply of residential aged care beds
- supporting workforce planning
- building the capacity and capability of providers
- supporting best-practice and innovation.

There may also be a need to explore and introduce alternative models of care where there is a risk of market failure. This could be done as part of the local stewardship role and would include collaboration with a range of local stakeholders and partners to develop the best approach for the local region.

The initial rollout phase will commence in July 2021 in eight Primary Health Network (PHN) regions, with nationwide rollout subject to evaluation.

The local network role will be defined further over in the second half of 2021.

Market intelligence

As is the case now, providers will need to undertake their own strategic planning and market analysis to guide their business decisions, and to determine what services people want, where services are needed, and which groups of people will be looking for care both now and in the future.

Government will assist providers in this role by making information available to support sound decision making. The topic of market intelligence will be explored in more detail during future consultations. However, information could include:

- **The number of consumers in care**
- **Demand and supply information - including current and future bed availabilty**
- **Consumer behaviour - including the length of time in care, exit reasons etc.**
- **The number of consumers approved for care, and an estimation of the distribution of need**
- **Occupancy/vacancy levels**
- **The number of providers (possibly including newly proposed services)**

Information on demand and supply will be particularly important and will help providers make planning decisions on where to develop new services. It will also allow Government to more accurately identify areas with supply issues, and in turn focus energy in these areas for capital expenditure and targeted intervention. Demand and supply information should focus on more than just the total number of beds available. It should also consider the availability of beds that cater to special and other cultural needs.

In order to support this there may be a need to collect information from providers on the number of beds currently on offer, and the number that they plan to make available in the future (for example as a result of new developments).

Government may also have a role in supporting best practice and innovation. For example, by sharing case studies of innovative care, services or accommodation and the delivery of best practice residential aged care in a competitive market. Publishing the outcomes of consumer research may also be useful insight for the sector.

Oversight of provider viability and management of sector rationalisation

Greater competition within the residential aged care market is expected to lead to better outcomes for providers that are well managed and responsive to consumer needs. There will however be some providers that find it more difficult to adjust, who will need support to either improve or exit the market. It will be vital to ensure that any provider closure does not put residents at risk, and does not create a shortfall of supply within local regions.

Government will have a strengthened role in the new system to mitigate these issues and ensure the risk of provider failure is identified earlier and that providers are supported through a transition, sale or closure, or are provided business improvement support where required. This will ensure strong provider performance becomes the norm and the risk of failure is managed appropriately and in a timely manner.

A number of programs currently exist to support this, including through the Aged Care Financial Reporting process (which requires providers to lodge annual financial statements), and the Financial Monitoring Program (which helps at risk providers to develop strategies to improve). The Department also provides short term grants through the Business Improvement Fund (BIF) to providers who face significant financial difficulty.

This role will be further strengthened through a range of measures including the phased introduction of a new Financial and Prudential Monitoring, Compliance and Intervention Framework from 1 July 2021 and enhanced capability to monitor and respond to the risks of provider failure, in line with recommendations by the Aged Care Royal Commission.

The new framework will increase Government oversight of providers' financial performance, build the financial resilience of the sector, and boost Government's powers to address underperforming providers. Phases one and two of the framework (over 2021-22 and 2022-23) will introduce stronger reporting and disclosure requirements for providers to increase providers' accountability and transparency of providers' performance. This will allow Government to better monitor provider viability. From July 2023, phase three of the framework will seek to further build the financial resilience of the sector and introduce new mechanisms to address underperformance in the sector. This will be subject to separate targeted consultation.

A Structural Adjustment Program (SAP) will be established to provide grant support to assist providers to improve, or where more appropriate, to sell or exit the market. This builds on the BIF and will allow for more providers to access targeted funding to meet their needs, while also allowing sales and closures to happen in an orderly way with as little impact as possible on the continuity of care for residents.

Providers will be further supported with independent business advice to improve their capacity and capability to sustainably deliver quality care through the existing Business Advisory Services (BAS) and the Remote and Aboriginal Torres Strait Islander Aged Care Service Development Assistance Panel (SDAP). The BAS will also be expanded to include a new workforce planning stream to support providers to develop a plan to attract and retain staff.

Further information can be found at Aged Care Reforms.

Questions

Question 7: Should the existing quality and safety functions be expanded or redesigned to address any potential gaps arising from the removal of the ACAR?

Question 8: What measures would further ensure providers cater to special needs groups and those with additional cultural needs?

Question 9: What information do providers need to help support decision making?

Provider viability

Discontinuing the ACAR will strengthen residential aged care and help develop a more competitive market where providers have greater control over their business decisions. However, the removal of bed licences will need to be managed, and there may be less certainty of occupancy for some providers operating in competitive markets, which may in turn impact their viability. These topics were covered in depth by the Impact Analysis.

Accounting for the removal of bed licences

It is acknowledged that discontinuing the ACAR will impact the value of bed licences and that this will need to be managed by providers.

Bed licences are currently recorded on the balance sheets of some providers as intangible assets[8]. As outlined by the Impact Analysis the treatment of bed licences as an intangible asset depends on the type of provider and how the licence was acquired.

Many not-for-profit providers have removed allocated places from being disclosed as intangible assets, with just under 30 per cent of not-for-profit providers including places as intangible assets as at 30 June 2018.

Around 60 per cent of for-profit providers recorded at least some of their allocated places as intangible assets as at 30 June 2018. However, this number is likely to have dropped recently.

The Australian Securities and Investments Commission (ASIC) has released frequently asked questions (FAQs) on the accounting treatment of bed licences. This includes consideration of how the discontinuation of the licences may affect any asset for bed licences appearing on a provider's statements of financial position in the lead up to 1 July 2024. The FAQs are available at ASIC FAQs (see FAQ 9D).

The accounting treatment of bed licences will also be explored in more depth directly with auditors.

The removal of bed licences may create some risk for providers on a short-term basis but is not expected to impact the overall viability or sustainability of the sector. This is because many approved providers have already removed bed licences as an intangible asset, and this would be a one-off impact. Bed licences make up a small percentage of the sectors total assets (less than 7 per cent at 30 June 2019).

Further, representatives of the finance sector advised the Impact Analysis that they do not take the recorded value of places into account when assessing applications for finance.

Disclosing intangible assets increases the net assets of an organisation, but outside of this there is minimal benefit.

[8] An intangible asset is an identifiable non-monetary asset without physical substance. Examples of intangible assets include computer software, licences, trademarks, patents, films, copyrights and import quotas.

This impact may be more significant for a small number of providers that have a greater reliance on the asset value of bed licences. These providers will be supported through the range of financial resilience and market adjustment measures outlined above.

Further measures to mitigate the risk of the removal of bed licences may be considered where necessary. However, at this stage there are no plans to provide direct compensation to providers for the removal of licences. This is because licences are provided by the Government at no cost, and businesses providing quality services are expected to continue to attract residents.

Findings of the 2020 Impact Analysis of alternative arrangements for allocating residential aged care places

- Under the ACAR, places are allocated by the government at no charge to successful provider applicants. However, because of the policy induced scarcity of places, providers may offer some of these places for a value, on the secondary market.
- In 2017-18, the average value of an allocated residential aged care bed licence for for-profit providers was over $30,000, compared to $8,000 for not-for-profit providers. Not-for-profit providers tend to acquire (or value) licences at a lower amount (often acquired from other not-for-profit providers).
- The disclosure of bed licences as an intangible asset will require specific assessment. In relation to not-for-profit providers who have valued licences gained from ACAR or through other government allocation it is likely that these will be required to be written back.
- In the case of providers (for-profit and not-for-profit) who acquired licences through an arms-length transaction with a cost or fair value attributed to them, these are currently disclosed as having an indefinite useful life and accordingly are not amortised. The licenses may need to be impaired and/or amortised over the period to 1 July 2014.
- All assets, intangible and tangible, require regular assessment as to whether the carrying value is fairly stated based on financial performance.
- For further discussion please refer to the ASIC FAQs (see FAQ 9D).

Occupancy and viability

The removal of the ACAR will require providers to restructure their business models to operate in a competitive market and to meet consumer preferences.

Well managed, high quality providers are expected to adjust positively– especially considering other related measures being put in place to address overall sector viability. These measures include the introduction of a new AN-ACC funding model which will include tariffs that cover fixed care costs and capture those characteristics of the care facility that drive costs over and above the characteristics of the individual care recipients.

Annual costing studies will also be undertaken to better distribute funding based on evidence-based studies of costs associated with care for different residents. This will replace the current indexation arrangements and will ensure subsidies stay in line with cost structures of the sector.

Capital funding will also be made available to enable aged care providers to make needed improvements to their buildings and build new services in areas where senior Australians currently do not have access. See above for further discussion.

Providers that have an artificially high occupancy under the ACAR may experience reductions in occupancy as a result of increased competition. Given the correlation between occupancy and viability, these providers may become less viable as a result and will need to either improve their service offering to better meet consumer needs or may be forced exit the market.

As outlined above, a range of business support and transition initiatives are being introduced to manage these risks. These measures will ensure that the risk of provider failure is identified early and that providers are supported through a transition, sale or closure, or are provided business improvement support where required.

Investment decisions

The Impact Analysis concluded that the removal of bed licences is not expected to have a material impact on lending decisions.

They found that lenders generally do not consider the balance sheet value of places when making lending decisions. Finance sector representatives advised the Impact Analysis that it is the reliability of cash flow (not the allocated places per se) that is important when considering applications for financing.

Willingness to lend is also likely to be determined by the quality of future cash flows, underpinned by tangible asset security and other non-financial criteria such as occupancy, management capacity and company governance.

There may be greater scrutiny of investment decisions due to revenue becoming less predictable, and financial institutions are likely to focus lending decisions more directly on the providers' brand, service proposition, equity structure and organisational governance. To attract investment in a post ACAR environment, providers will have to demonstrate that they have a safe, efficient, competitive and quality service that is attractive to consumers. As outlined above, those providers that do not meet consumer expectations will need to improve or may need to exit the sector.

Although the removal of bed licences as an intangible asset may not significantly impact lending decisions, there may be an impact from the overall structural adjustment and the reduced certainty of occupancy that results from a more competitive market. There are also a range of other reforms that may impact the capacity of providers to raise capital, including the design of a new residential aged care accommodation framework.

The 2021 ACFA report notes that viable and well-run providers with sound governance structures are best placed to attract the financial capital, experienced management and quality staff required to deliver long term sector sustainability and growth.

Given the importance of this issue, the Department will undertake targeted consultation with sector lenders, investors, auditors, and banks on the impact that the combined changes will have on their lending and investment behaviour. Further consultation with providers will occur following this process, with additional mitigation strategies and transitional support considered where necessary.

Questions

Question 10: What impact will the removal of bed licences have on the sector?

Question 11: Are there further measures that may help to mitigate risks arising from the removal of bed licences?

Question 12: What impact will the removal of bed licences have on investment decisions?

Question 13: Are there any additional issues that should be considered in relation to lending and investment decisions?

Transitional arrangements

There will be a transitional period between the last ACAR in June 2021 and the introduction of the new assignment system in July 2024, during which some of the current ACAR places management arrangements could be streamlined.

Ensuring supply during the transitional period

At 30 June 2020 there were 217,145 operational residential care places across Australia. Occupancy of these places over 2019-20 was 88.3 per cent. This indicates that national demand for residential care is currently being met.

On 30 July 2021, the Minister for Senior Australians and Aged Care Services, the Hon Richard Colbeck MP, announced the allocation of 4,098 new residential aged care places through the 2020 ACAR. In recognition that the ACAR would cease following the conclusion of the 2020 round, the Department allocated an additional 2,098 places beyond what was initially announced. This will contribute to ensuring the supply of residential care places over the next three years.

The 2020 ACAR was the final ACAR, therefore places will no longer be allocated through an ACAR process during the transitional period. Demand will continue to be met through the availability of existing places, and through a large number of provisional places coming online. The licence exchange market will also continue to operate.

ACFA predict that by 2024 there will be demand for around 214,000 places (see analysis above). To meet this demand there will be 217,145 existing operational places, plus the release of further places in the current ACAR. Supply will also continue to increase over the transitional period as up to 31,234 provisional places that have been allocated in previous ACARs are bought into operation.

The Department will also implement transitional arrangements that will allow providers to apply for places outside of a traditional ACAR round. Providers that bring developments online and can offer care immediately, but do not have bed licences, will be able to apply to the Department for the allocation of operational places. This will be a non-competitive process and will help to ensure that developments are not delayed, and that access is not limited due to a lack of ACAR places.

Further detail of these transitional arrangements will be advised in the coming months.

Provisional places

Places under the ACAR are initially allocated on a provisional basis. Once the provider is ready to deliver care, they need to apply to the Department for approval. They are given an initial period of four years to do so, with two possible 12-month extensions available on application. They are also required to provide annual reports on their progress towards bringing their provisionally allocated places into effect. After six years the provisionally allocated places can be revoked and returned, with extensions approved in exceptional circumstances.

Similar to the decision making process for the original ACAR allocation, the approval to extend the timeframe for a provisional place is largely focussed on the ability of the provider to make the place operational, rather than an assessment of the quality of the care proposed to be offered.

It is proposed that the requirements for providers to receive approval before making a place operational are removed or streamlined as much as possible during the transitional period (subject to the ability to revise current aged care legislation). Given that the concept of provisional and operational places will no longer exist beyond 2024, there seems limited value in requiring providers to seek this approval in the interim.

It is proposed that the requirement for providers to apply for extensions will also be reduced during the transitional period, given that the concept will be removed from 2024 onwards.

Although these processes are proposed to be streamlined, there will still be an ongoing oversight role of Government and regular communication will need to continue between providers and the Department. This is critical in understanding access for consumers, identifying supply issues, and developing opportunities to broker solutions to any gaps. It is expected that the improved regional stewardship role outlined above will help in this regard.

Transfer and variation of places

Under the current system places can be transferred between providers either separately or as part of the sale or transfer of a whole service. A provider must issue notice to the Department, who has the power to veto the transfer. Decisions to veto largely focus on the impact that the transfer will have on the supply of places within the regions that places are being transferred between. For example, whether the transfer would increase or lessen the diversity of choice available to care recipients.

Providers can also vary the conditions associated with their places, including the location of the places, the proportion of care to be provided to particular kinds of people, or the ongoing operation of the service. A variation needs to be approved by the Department.

From July 2024 places will no longer be allocated to providers and the processes associated with the transfer and variation of places will cease. As such, it is proposed that these requirements will be reduced or streamlined in the lead up to 2024 (subject to the ability to revise the current legislative arrangements).

Whilst places will no longer be transferred or varied in the future, there will still be situations where services change ownership, and where people are required to be transferred to another service (for example due to a closure). As such, separate measures will be needed to ensure the continuity of care for the residents and to support the orderly closure of services.

A range of measures to support this are being considered as part of the reforms to improve oversight of provider viability, and better manage sector rationalisation. Further measures will also be considered if necessary as part of the second round of consultation.

The licence exchange market

The Department is aware that there is currently a licence exchange market for the sale or transfer of residential aged care places which allows new providers to enter the market or existing providers to expand in the absence of obtaining places in the ACAR[9].

The licence exchange market may continue to operate in the transitional period, before ceasing from July 2024. However, the licence exchange market is expected to be weak given the now diminished value of bed licences and their limited lifespan of three years. This may have impacts for providers planning to sell or purchase a facility, but it is not expected to impact on access to care within regions. As outlined by the Impact Analysis, decisions by providers to operate in rural, remote and other challenging areas is much more dependent on whether they would be financially viable on a sustainable basis, rather than access to bed licences.

It is also important to note that transitional arrangements, such as those described above will also be in place so that providers can apply directly to the Department for an allocation of places when they are ready to commence delivering care, rather than having to purchase places through the secondary market.

Extra service fees and additional service fees

Some aged care homes have been approved with an Extra Service Status (ESS). ESS does not attach to an aged care place but attaches instead to an aged care home (or to a distinct part of the home). It allows the home to charge extra service fees to provide a higher standard of accommodation, a better range and quality of food, and a range of recreational and personal interest activities.

ESS was awarded to approved providers on a competitive basis, either as part of the ACAR or as a standalone ESS approvals round. No ESS approvals round has been conducted since 2012, and there are no plans to conduct a round in the future.

Since 2014, there has been a significant decrease (approximately 38 per cent) in the total number of places with ESS from 17,390 in 2014 to 10,766 in 2019[10]. This decrease is likely a result of changes made to accommodation pricing on 1 July 2014 that reduced the need and motivation for providers to have ESS, partly because lump sum accommodation payments can now be made for all care types – previously they were restricted to low care or high care with extra service. Another reason for the decrease is the ability for providers to charge additional service fees, which have a very similar purpose.

Additional service fees are increasingly being utilised by residential aged care providers as a way to enhance their service offering and diversify revenue streams. By agreement with the consumer an aged care provider can charge an additional service fee for care and services over and above those that they are required to supply under aged care legislation. Typical examples of services that can attract additional service fees include pay television, hairdressing, and access to an onsite pool.

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[9] Noting that ASIC has previously stated that the criteria for an “active market” in accounting standards are strict, and that they have not yet seen intangible assets in Australia that would meet those criteria.

[10] Eighth Report on the Funding and Financing of the Aged Care Industry – May 2020

The additional services fee framework is being strengthened to improve clarity and transparency for both consumers and providers. A range of changes will be implemented including mandatory disclosure on both My Aged Care and the provider's website, restrictions on mandating fees for low means residents, and requiring additional service fee agreements to be time limited.

One option would be to cease ESS arrangements at the commencement of the new Aged Care Act from 1 July 2023, or from 1 July 2024 at the same time as the ACAR is discontinued. This would reflect the declining use of ESS, and the improvements to the additional services fee arrangements.

Questions

Considering the current requirements of the *Aged Care Act 1997* with regards to the management of residential aged care places:

Question 14: What processes could occur between now and 30 June 2024 to allocate places to providers when they are ready to deliver care immediately?

Question 15: What transitional arrangements could be in place between now and 30 June 2024 for the management of provisional places and operationalising provisional places?

Question 16: Are any changes needed to the arrangements to transfer or vary places?

Question 17: Do you think that Extra Service Status arrangements should be discontinued from 1 July 2024?

Next steps

Submissions to this paper

The Department invites feedback and ideas in relation to the issues raised in this paper.

You are encouraged to share your views, and provide the evidence and insights that underpin them by providing a response to the survey via our consultation hub.

While the review will focus on the themes outlined above, we acknowledge that there may be other issues that these do not cover. We invite submissions on those areas that are within the scope of the review, based on the content and questions outlined in this discussion paper.

Responses will be accepted until 14 November 2021.

Future consultations

Targeted workshops will be held in the second half of 2021 to further discuss the introduction of consumer choice and control within residential aged care. This will supplement the views provided through this consultation paper.

For more information about when and where consultation sessions will be held, and how to register please see our consultation hub.

Further opportunities will be provided later in the consultation phase for interested parties to provide views on more detailed design aspects, and to help guide the approach to transition and risk mitigation.

Ongoing information will also be provided at health topics.

Attachment A – Related measures

Residential aged care funding and sustainability

A new Australian National Aged Care Classification (AN-ACC) funding model for residential aged care will be implemented from 1 October 2022. This will provide fairer and more equitable funding, and will support the sector to deliver high quality care. Providers will benefit from a more stable and efficient funding model that provides expenditure certainty. Residential aged care services which operate in rural and remote regions, and those which service Indigenous and homeless populations will benefit from a more equitable distribution of funds.

There will also be an investment of additional funding to support basic living costs (through a $10 per resident per day Basic Daily Fee supplement) and a continuation of the 30 per cent increase to the homeless and viability supplements.

In addition, funding will be provided to increase the amount of front line care delivered in line with care time standards.

Home Care and a new Support at Home Program

An additional 80,000 home care packages will be released in 2021-22 and 2022-23. This reflects the increasing preference of senior Australians to stay at home for longer, and is likely to have an impact on the demand for residential care. The issue of supply and demand for residential aged care is discussed below.

A new support at home program will then commence in July 2023. This will replace the Commonwealth Home Support Program, the Home Care Packages Program, Short-term Restorative Care and residential respite. This program will be developed in consultation with senior Australians and community stakeholders.

Residential respite

Changes are being made to residential respite in two ways. Firstly, from July 2023 access to the program will occur as part of the new support at home program. The design of these arrangements are subject to consultation, but it will mean that access to residential respite is no longer dependent on places being allocated through the ACAR. Secondly, there will be increased funding to align residential respite funding arrangements with the new residential aged care funding model. This will give providers increased incentives to offer residential respite services.

A new Aged Care Act

A new Aged Care Act will be introduced to support greater choice and control for senior Australians over the care and services they receive. It will establish provisions for eligibility for care, funding arrangements and regulatory powers. The new Act will be in place prior to places being assigned directly to consumers in 2024.

Access to aged care for First Nations people and special needs groups

A range of measures are being introduced to ensure the aged care system is more accessible for those with special needs and additional cultural needs, including First Nations people, those who are homeless or at risk of homelessness and those living in regional, rural and remote Australia. Measures include capital investment and more support and resources where delivery costs are higher and service viability is being compromised.

Connecting senior Australians to aged care services

New face-to-face services will be provided for senior Australians. This will include additional support within Services Australia service centres, and a network of local Care Finders. This support will be essential in assisting people make informed decisions on their choice of provider.

Single assessment workforce

A single assessment workforce will be introduced to improve the assessment experience for senior Australians. This will include funding assessments for residential aged care (from October 2022) and eligibility assessments for residential aged care and the support at home program (from July 2023).

Star ratings

The Government has announced that star ratings will be published on My Aged Care by the end of 2022, providing performance information for people seeking residential care. Star ratings will allow older people and their families to make meaningful comparisons of the quality and safety performance of services and providers, based on clinical and quality indicators, staffing levels, consumer experience, and service compliance ratings.

Reforming accommodation settings

The Department are consulting with senior Australians and the aged care sector to develop a new residential aged care accommodation framework, for commencement in July 2024. New design standards would be developed to ensure safe and user-friendly environments for residents. The standards will address accessibility and dementia-friendly design in residential aged care, as well as the role of smaller group home models, reablement and respite settings.

Transition care

Transition care provides short-term specialised care and support to help people regain functional independence and confidence following a hospital stay. Transition care will continue to be offered in residential aged care facilities where appropriate.