

[REDACTED]

From: Ros Albiston [REDACTED]
Sent: Friday, 9 February 2024 12:57 PM
To: Aged Care Legislative Reform
Subject: Fwd: Act Survey
Attachments: Tell us what you think We NEED to know.docx; RE: Act Survey [SEC=OFFICIAL]; Re: Act Survey [SEC=OFFICIAL]

One crucial omission I have just become aware of is CDC (Consumer-directed Care) that is in the current 1997 Act but NOT in the draft for the new Act at all. This was the basis of the work done by COTA on a model/framework for Self management by clients & has been operating overseas for 20 years.

WHY would you omit such a critical component of protecting & supporting client choice, respect for their rights to choose who, what & how any Service enters their home & support for client self-determination.

THIS IS NOT ACCEPTABLE & IS THE CLAREST INDICATOR OF THE TRUE INTENTIONS OF THE GOVERNMENT/HEALTH DEPT.

Ros Albiston

----- Forwarded message -----

From: Ros Albiston [REDACTED]
Date: Fri, Feb 9, 2024 at 12:35 PM
Subject: Act Survey
To: <AgedCareLegislativeReform@health.gov.au>

Whilst it may look like I haven't addressed the wording or content of the Draft Act specifically enough, that is because as a client of the Home Support program, it is the practical issues & experience that direct & identify my concerns.

Clients are not experts of how & where these issues should or could be reflected or written into the Act. I have made comments in response to what I see as either 'gaps', existing issues that will not be addressed in the current draft, or concerns about the growing 'mismatch' between the rhetoric & reality. I don't see much at all that gives me any confidence that the changes that are needed are going to be addressed in some way by this Act.

Ros Albiston

Tell us what you think We ~~want~~ NEED to know:

• *Do we describe a rights-based approach well*

- Defines quality care well. The long list of individual rights is welcome. Some of this is carried over into the sections that shape governance & 'rights' language.
- The core focus on the individual as a 'rights-bearing' entity accepts that individual's choices should be emphasised, recognised & accepted.
- However, this ignores the reality that individuals are not completely 'free-standing' entities. They are connected to & influenced by their surrounding context. This individualistic emphasis seems to imply that 'the market' can fix everything & that all government needs to do is sit back & just help to 'sort out' the occasional 'problem', 'gap', 'bad apple'.
- It is concerning that the section on the right to 'equitable access' (section 20 (2)) only covers the right to assessment & palliative care, with nothing in between. Section 45 states that assessment reports must be provided to the Health Dept. as soon as 'practicable' but there is no equal requirement for the individuals being assessed.
- More importantly, there is no right to services that will or can respond to these assessed needs. The Dept of Health is assigned a rather weak 'function' to 'facilitate equitable access', (Section 132) but no parallel right that needed services actually exist. There is *no obligation* on the government to ensure that people can get the services they need.
- Section 20 does not create a right to information about quality of care that a person might experience. The crucial role of government in service development is not included anywhere in the Act.
- The Aged Care Quality & Safety Commission (ACQSC) is given a number of functions (Section 141) but this does not include publishing information about relative quality of care.
- Even worse (in Section 322) disclosure of information that might be seen to impact on the 'commercial interests' of Providers, is **absolutely** protected but there is NO consideration as to how or if that protection might have an adverse impact on consumers &/or their wellbeing.
- Part 7 recognises that some decision making might become automated BUT there is no requirement, emphasis, obligation or necessity to ensure that these (or any other provisions in the Act) are consistent with the Act's rights-based principles. (Surely there are critical lessons that have been learnt from Robodebt!).

- Unfortunately, a lot of the wording in the Act feels like high-sounding rhetoric. Based on past & current observations & experiences, many actions, processes & developments, being introduced or proposed under the umbrella of the new Act, are not only inconsistent with the policies, principles, values & commitments made in the ongoing development of the 'wonderful new client/consumer-focused' Support Service, but when you get down to the 'nitty gritty', they actually allow providers to continue unimpeded & for government to eschew any role or responsibility to create & steer a consumer-focused service system.
- This is blatantly confirmed by the lack of any enforceable proceedings in a court or tribunal to ensure that clients rights are not just protected but enforced (Section 21). There is still a lot of work that needs to be done, to ensure that the Act responds in a meaningful way, to the issues raised in the Royal Commission.
- A disturbing tone has been introduced in the responses to any suggestions that more time is needed to make sure this Act 'gets it right'. The response that "the aged members of our community should not have to wait any longer for their rights to be protected" is almost a smug 'slap-down', pushing the 'guilt' & judgment back onto the shoulders of those who would be so inconsiderate as to insist on 'getting it right' (at the expense of these poor, defenceless people who need our help & support to remain in their homes!!).
- This sidesteps the responsibility to ensure that all the issues that were identified in the Royal Commission, are adequately 'covered' & avoids the 'uncomfortable' questions about aspects such as vital information/content that is missing (&/or not addressed), with questionable timing for adequate consultation processes that are put out into the public arena at the 'last minute'.
- A genuine commitment to seeking feedback & input from wide-ranging sections of the service & client communities, would be wanting to ensure they 'get it right', reflecting the very principles of "the client being the centre of everything" that they have wide-ranging 'rights' & deserve the respect of not rushing through incomplete inadequate proposals, seemingly justifying this as 'better than the selfish inconsiderate people who want to make people wait longer'.

<p>• <i>Is it clear that older people will be at the centre of aged care?</i></p>
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No, not at all. There are a number of examples where higher priority is given to the interests of Service Providers &/or the government weakens or absolves itself of any meaningful responsibility for not just protecting the rights & interests of older people but also for ensuring there are adequate services available to meet the needs identified in assessments. There needs to be comprehensive oversight & monitoring of the quality of these services & that EVERY action, strategy, decision, plan or response, can clearly demonstrate:

- how they have involved clients in appropriate ways; have supported & enhanced their ability to be active decision makers; that they are provided with meaningful choices & options for how they are supported to remain in their own home; & can clearly identify the ways their support services demonstrate respect for the choices they make.

• *Is it clear how older people's rights will be upheld?*

NO Given that the government has not identified/included any enforceable strategies/options for creating & steering a consumer-focused service system, it is hard to see how these rights will be upheld. The inference is that simply allowing the “market” to ‘emerge’ in response to ‘demand’/‘assessed need’ it will automatically ‘self-monitor’ & maintain the level of ‘quality’ that would be expected (including the way it is delivered & demonstrates ‘respect’ for client rights). Nothing in the development of service models & choices given (or not) to clients, has ever demonstrated this willingness, without any monitoring or ‘accountability’ measures, to ensure not just compliance but a service culture of ‘respect’ for rights.

• *Is it clear how older people will be empowered to make decisions?*

I have seen ***nothing*** in any of the proposed service changes, requirements or options that demonstrates any willingness at all, let alone an understanding or capacity to ‘empower’ older people to make decisions. There are minimal levels of compliance, up to this point in time, to ensure that adequate, clear information is made available about service costs nor willingness to work with clients to support their choices about what they needed to assist them in maintaining autonomy & independence in their own home.

There is no empowerment of clients when they are simply ‘told’ what services they can have & how much they will have to ‘pay’/allocate from their funding allocation for these services. I have not seen any strategies, proposals or even ‘directives’ to service providers, that will encourage or support them actively making these changes.

It may be that in some areas, where there are larger numbers of providers, some may have needed to be more flexible to offer more options & support, to ‘encourage/entice’ potential clients to use/choose their service. In the smaller regions, where there are usually much more limited options & choices, there has been a clear attitude of ‘take it or leave it’.

And now, with the potential changes coming, the more flexible service providers are being directed, through the guise of meeting/passing annual Quality & Management reviews, to change their processes to make ‘self-management choices almost impossible to maintain; restrict the flexibility that supported & empowered clients to make the decisions that best supported them (whilst still being within the program guidelines & parameters); & most disturbing of all, being told that they had to cease immediately, having clients actively involved in developing & reviewing their Care Plans. The proposed changes they were informed of, to replace the practices used up to that point in time, were that Registered Nurses would review all Care Plans (without any contact or communication needed with clients), these would be returned to the Care Manager who would check if there were any risk factors that needed to be addressed.

Explain to me how that empowers clients to participate in decision-making processes for their own care &/or supports????

• Is it clear what aged care providers and workers must do?

As per the above comments & changes that are already being ‘imposed’, I suspect that at upper levels of services & managers, there will be some who are totally confused or worried or fearful but just have to wait till they have more concrete decisions, directives, etc to see where things are headed. Others in the larger organisations are probably quite validly assuming that it will be ‘business as usual’ unless or until someone ‘bites the bullet’ & they will still continue as usual because the sector can’t manage without their involvement or suddenly it will all be over,

Some organisations decided a year or so ago that they would not be viable under the new framework. I haven’t heard if they were ‘encouraged to ‘hang in there & see’ or whether they have already closed down as some funding decisions have been implemented well before some plans were formalised or finalised.

In the smaller more flexible services, I suspect they too are just waiting to see what happens. There have been so many poorly thought through or communicated ‘updates’ that are still not ‘finalised’, with ongoing extensions of final implementation dates – many due to the reality of not being anywhere near ready for implementation – that the only sane approach for many has been ‘head in the sand’.

Anyone can take part in this consultation.

- This includes:
- older people, their families and carers ✓
 - aged care providers and workers
 - researchers and experts
 - anyone who is interested in Australia’s aged care system.

There are different ways you can have your say.

- You can:
- come to one of our workshops
 - complete an online survey ✓
 - call us on 1800 318 209
 - email us at AgedCareLegislativeReform@health.gov.au
 - register for a workshop or access the online survey at

: www.health.gov.au/aged-care-act-consultation.

You need to submit your feedback by 7 pm AEDT, Friday 16 February 2024.