

Submission on the Aged Care Bill 2023

March 2024



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About UnitingCare Australia

UnitingCare Australia is the national body for the Uniting Church's community services network and is an agency of the Assembly of the Uniting Church in Australia.

We give voice to the Uniting Church's commitment to social justice through advocacy and by strengthening community service provisions.

We are the largest network of social service providers in Australia, supporting 1.4 million people every year across urban, rural, and remote communities. We focus on articulating and meeting the needs of people at all stages of life and those that are most vulnerable.

The UnitingCare Aged Care Network is the largest not-for-profit aged care provider in Australia. Our network supports approximately 97,000 older people, comprising 8.5% of total residential beds and 10% of Home Care Packages nationally.

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Introduction

UnitingCare Australia welcomes the opportunity to provide a submission in response to the Exposure Draft of the new Aged Care Bill 2023 (Act) and 'A New Aged Care Act: Exposure Draft, Consultation Paper No. 2' (Consultation Paper). We share the Government's ambition for improving the aged care system and putting the rights of older people first with this once-in-a-generation reform.

This submission, prepared in consultation with the UnitingCare Network, provides a practical roadmap for implementing key components of the Act. We want to ensure we get the policy right and support providers to effectively transition across to a new framework. This will ensure the best possible outcomes for older Australians, their families, aged care providers, aged care workers and the sector at large.

The submission outlines what we aim to see from Government, the Department of Health and Aged Care (Department), and the Aged Care Quality and Safety Commission (Commission) to foster readiness among providers and stimulate effective change management across the sector. We look forward to working with Government to achieve this reform.

We note the Aged Care Rules (Rules), which will accompany the Act and provide much of the detail currently omitted, are yet to be released. The Aged Care Taskforce is also yet to release its final report which covers funding of the aged care system (and assumedly populate placeholders in the Act on fees and payments).

Roadmap

UnitingCare Australia supports a phased approach to reforms being implemented through the Act. The below roadmap outlines how certain elements of the Act could be staged, allowing sufficient time for implementation and readiness activities. In our view, some of these elements require straightforward revisions, otherwise if they require further policy work, we have recommended they not be included in the Act at this time and instead be removed, revised, and introduced at a later stage. Please note our reasoning in relation to each item in the roadmap, is set out further below.

Element	3 months after passage	9 months after passage	12 months after passage	Remove and Revise	Summary of Recommendations
Statement of Rights	✓				<ul style="list-style-type: none"> Support a rights-based Act But amend and include the right to access aged care services, and to include responsibilities of people receiving aged care services.
Objects and Statement of Principles	✓				<ul style="list-style-type: none"> Support the Objects and Statement of Principles But amend and include provision of adequate government funding.
High Quality Care	✓				<ul style="list-style-type: none"> Support the delivery of high-quality care But recommend moving the definition to the Rules so it can be further refined and updated over time.
Eligibility Criteria	✓				<ul style="list-style-type: none"> Support inclusion of eligibility criteria But amend to include an exceptional circumstances pathway for highly vulnerable younger people.
Provider Registration	✓				<ul style="list-style-type: none"> Support the provider registration process But amend to increase the default period of registration from 3 years to 5 years to reduce risks to capital investment flows.
Complaints Commissioner	✓				<ul style="list-style-type: none"> Support the increased focus on complaints handling But amend to make the Complaints Commissioner an independent appointment.
Quality Standards		✓			<ul style="list-style-type: none"> Support the new quality standards Providers need at least nine months for transition to embed the new quality standards in their policies, procedures, training and practice.

Element	3 months after passage	9 months after passage	12 months after passage	Remove and Revise	Summary of Recommendations
Statutory duties; fines and penalties		✓			<ul style="list-style-type: none"> • Criminal penalties need to be removed • Strict liability offence needs to be removed from the statutory duties • Penalties need to be lowered and made discretionary • Providers need nine months for transition to update policies and procedures and educate responsible persons and the workforce.
Other Activities <i>E.g. Complaints Framework, Whistleblowers, Incident Management, Information Management.</i>			✓		<ul style="list-style-type: none"> • The Act contains a range of new provisions which will have a material impact on providers, many of which are currently missing from the Act • Providers will need a minimum of 12 months to implement these new provisions - including undertaking gap analysis, updating policies and procedures, updating IT systems and rolling out education and training.
Supporters and Representatives				✓	<ul style="list-style-type: none"> • Support the principle of a uniform, supported decision-making framework • But significantly more work is required to make the framework operationally practical and to align with State and Territory frameworks • There is the potential for very serious consequences if the current drafting remains, with no flexibility allowed for providers and family members to make decisions quickly.
Needs Assessment				✓	<ul style="list-style-type: none"> • Support the move to a single assessment system • But more consultation and revision is needed to ensure the Act and the associated Rules support the establishment of a new needs assessment system that does not act as a barrier to access for highly vulnerable older people.

Statement of Rights

Proposal: Commence 3 months after passage, with revisions

UnitingCare Australia supports a rights-based approach to aged care. We believe all people should experience compassion and dignity as they age, and providers in the UnitingCare network are committed to upholding the rights of older Australians.

We note the Act provides a right to equitable access to an aged care assessment, a right which we support. However, UnitingCare Australia believes that every person has the right to access *aged care services*, when and where they are needed. While a right to an assessment is a worthwhile foundation for upholding the rights of older Australians, it's a right to receive aged care services that needs to be embedded into the Act. We agree with COTA and OPAN's Key Issues Paper that there is an obligation on the aged care system to provide services to all older people.

In addition, rights are not absolute and with rights come responsibilities. Understanding how the rights of individuals are balanced against the rights of others in a community is a critical part of any human rights approach. We reaffirm our position that the rights of older Australians in aged care need to be balanced with the rights of their peers, aged care workers and the broader community. We advocate that the Act needs to outline fundamental responsibilities for older Australians accessing the aged care system, to ensure a mutual appreciation of workers and communities.

Objects and Statement of Principles

Proposal: Commence 3 months after passage, with revisions

UnitingCare Australia supports the inclusion of the Objects and Statement of Principles in the Act. However, they should be amended to include a commitment from the Commonwealth to fund the aged care system at a level that would support the provision of quality aged care that is in line with the Statement of Rights and Quality Standards. This will ensure alignment of expectations and care delivery.

High Quality Care

Proposal: Commence 3 months after passage, with revisions

Aged care providers in the UnitingCare network strive every day to deliver high quality care. UnitingCare Australia acknowledges the definition of high quality care has been included in the Act as an aspirational statement with the aim of fostering cultural change and continuous improvement. However, we remain concerned that having an aspiration within the Act will create an expectation gap between *'high quality care'* and minimum requirements defined through the quality standards. There is a high likelihood of its inclusion creating confusion for older Australians, providers and the Commission.

While high quality care is aspirational, the Consultation Paper states certain registered providers will be required to 'demonstrate the capability for, and commitment to, continuous improvement towards the delivery of high quality care'. This is reflected in section 99 of the Act as a condition of registration. This will be challenging when the proposed definition of high quality care is so broad and subjective. It will be difficult for providers to demonstrate or evidence it without specific parameters.

If a definition of high quality care is to be included, UnitingCare Australia agrees with COTA and OPAN's Key Issues Paper that what constitutes high quality care will evolve over time and that the Act needs to include a mechanism to enable the definition to change in line with societal expectations. UnitingCare Australia advocates for the definition of high quality care to be moved from the Act into the Rules. This will allow the definition to evolve over time, as required. It will also mean the definition can be further refined and specified so that the connection between this definition and the continuous improvement processes reflected in Section 99 can be clarified.

We flag that high quality care cannot be considered in isolation from funding. There is no question that aged care providers want to deliver high quality care. However, it is often a lack of funding and workforce quality and availability that impacts on providers' ability to provide high quality care. If the aspiration is for providers to

deliver high quality care, the Act must include a requirement for Government to fund the system at a level that enables it to be delivered in a sustainable way.

Eligibility Criteria

Proposal: Commence 3 months after passage, with revisions

UnitingCare Australia supports the Government's aim to clarify and simplify the eligibility criteria for accessing funded aged care services. Diverting people from interacting with the aged care assessment system when they are clearly not eligible will be beneficial. In addition, UnitingCare Australia commends the Government's strong desire to ensure younger people do not reside in residential aged care where possible, given their divergent needs.

However, we note there may be circumstances where residential aged care may be the only or most appropriate option to keep a younger person housed and safe, particularly in regional and remote areas. By completely removing their eligibility for aged care there may be a risk of an unintended outcome for some of the most vulnerable members of our communities. A number of UnitingCare network aged care providers deliver essential services to younger people in residential aged care where there are no other options, particularly in remote communities. In some of these locations the residential aged care facility represents the sole, appropriate infrastructure to provide care and support. In addition to our case study below, we note the submission from UnitingCare network organisation Helping Hand contains further information and case studies on this topic, including in home care.

Case Study

Since 2016, a residential aged care facility in a remote community has been providing accommodation and support to a local Aboriginal man in his 40s, who has a disability due to Foetal Alcohol Spectrum Disorder. The closest supported disability accommodation is over 4 hours away. Being accommodated in his community means this man can maintain his strong connection to family and country. It is unlikely that supported disability accommodation will be built in this community any time soon. Removing his access to the residential aged care facility as soon as this new Act commences will be a major upheaval and involve broken connections for this man and his family, leading to very poor outcomes.

It is clear the Department of Health and Aged Care is working diligently with other Departments and State and Territory governments to try to develop alternate solutions for younger people, but this can take time. In regional and remote locations flexibility is critical. Demand can fluctuate relatively quickly but the development of appropriate facilities has long lead times. Even if alternate arrangements are found for the existing younger clients in residential aged care, it is possible these alternatives may not be able to absorb demand from new clients in the future. Having the flexibility to accommodate new clients in residential aged care facilities while alternative arrangements are found would provide an important safety net.

We also note these strict criteria go against the principles of choice and control that are key features of both the NDIS and aged care systems. For example, for some young people who have lived in residential aged care for a long time, it is their preference to remain, or stay with a parent when they enter residential aged care.

We strongly agree with COTA and OPAN's Key Issues Paper that there needs to be some flexibility to take into account exceptional circumstances for other groups and individuals under the age of 65. Provision for an exceptional circumstances pathway should be included in the Act. This could be supported with detailed guidance for the delegate and a requirement for regular reviews.

If an exceptional circumstances clause is not included, we support the inclusion of transitional arrangements that grandfather all existing younger age clients in residential and home care.

Provider Registration

Proposal: Commence 3 months after passage, with revisions

UnitingCare Australia supports the Government's position that all providers of Commonwealth funded aged care services must be registered.

While having to re-register every three years does increase the administrative burden on providers, we do understand the re-registration process is being introduced with the aim of improving transparency and oversight. However, it does introduce risks into the system. The possibility of providers not being re-registered

has the potential to increase insurance premiums to cover the increased risk and to discourage investors from loaning funds, particularly for capital investment which has longer repayment timeframes. Attracting capital investment into this sector is already extremely difficult so introducing further disincentives is not ideal.

For these reasons, UnitingCare Australia recommends the proposed registration period is extended from three to five years. In our view, this strikes an appropriate balance which will give investors, crucial to the longevity and functioning of the system, more confidence while still providing increased transparency and oversight. It will also reduce the administrative burden of re-registration.

The detailed arrangements the Department and the Commission will develop to support the registration and re-registration process, as well as the proposed deeming process, should be as streamlined as possible and not impose disproportionate regulatory, evidentiary and compliance burdens on providers. There should be practical mechanisms implemented to acknowledge and have regard to prior registration during the re-registration process, further reducing the administrative burden on providers.

Complaints Commissioner

Proposal: Commence 3 months after passage, with revisions

UnitingCare Australia supports an increased focus on the handling of complaints, and we look forward to the Rules clarifying the process further. However, we recommend that the Complaints Commissioner be established as an independent statutory authority. Section 182 of the Act creates the perception that the Complaints Commissioner's role is to gather intelligence about complaints for the Commissioner, and not to investigate appropriately and action complaints.

The Complaints Commissioner must be fully vested with all necessary complaints functions, not merely assisting the Commissioner to carry out these functions. This will ensure that complaints are appropriately handled and actioned in a timely and efficient way.

Quality Standards

Proposal: Commence 9 months after passage

UnitingCare Australia supports the new Aged Care Quality Standards. We appreciate the extensive public consultation and piloting process the Commission undertook to develop the standards in concert with older people and providers.

While we are supportive of the new standards, providers need time to ensure they will be compliant, particularly noting the guidance material is currently subject to consultation. Allowing nine months from passage to commence the new standards will give providers the time to review the finalised guidance material, undertake a thorough gap analysis, update their policies and procedures and provide appropriate education and training of all staff across all areas. This will ensure providers can be compliant with the new standards as soon as they commence.

Statutory Duties and Penalties

Proposal: Commence 9 months after passage, with revisions

UnitingCare Australia remains concerned about the personnel, governance and viability risks that aged care providers will face through the proposed statutory duties and penalties. There is a serious risk that skilled and knowledgeable aged care workers, key personnel and board members (responsible persons under the Act) will leave the sector, due to the risk of civil and criminal penalties not seen in comparable sectors, including the health and disability sectors. At a time when the aged care sector is already struggling to recruit and retain skilled staff, we urge the Government to reconsider how the punitive nature of these provisions will impact on the attractiveness of the sector. There are also viability risks as aged care providers may not be able to achieve or afford Directors and Officers insurance with such risks at play.

Accordingly, we recommend that criminal penalties be removed from the Act. If this recommendation is not accepted, then as an alternative solution we propose that any criminal penalty in the Act aligns with equivalent penalties found under model Work Health and Safety laws, that aged care providers and workers are already subject to.

We also note that penalty units in the Act are not expressed as a maximum or ‘up to’ a certain amount, and we query how discretion will be applied when imposing these penalties. UnitingCare Australia recommends that all penalty units are amended to insert this discretionary language. This will provide some assurance to providers, responsible persons and aged care workers that the penalty amount as drafted is not automatically the maximum amount to be imposed. Further, the fines attached to penalty units are significant and it is difficult to contemplate how providers will be expected to pay these fines and remain financially viable. These fines and penalties will negatively influence how many people are willing to nominate for positions on boards. This will impact providers in rural and regional areas, where board positions are often on a voluntary basis. We note that unlike the Work Health and Safety laws, there is no carve out for volunteer directors. This will act as a further deterrent to attracting the right skill mix on boards.

The framing of the registered provider and responsible person duties as strict liability offences, combined with the absence of the words ‘wilful’ and ‘wilfully’, suggests that no discretion will be applied when examining allegations that a duty has been breached. We recommend not framing these offences as strict liability and inserting ‘wilfully’ as appropriate into sections 120 and 121 of the Act. For example, paragraph 120(3)(b) should read ‘The provider *wilfully* engages in conduct that breaches the duty’.

It also remains unclear what providers will be required to do to comply with the registered provider and responsible person duties, which is one of the biggest reforms providers and responsible persons are facing under the Act. We ask the Department to provide clear guidance and examples on elements of the duty such as ‘conduct of the provider’ and ‘adverse effects to the health and safety of individuals’ and how a causal link between the two is determined. This will assist providers in understanding the boundaries around their responsibilities and will enable providers to appropriately update their internal policies and procedures.

Further, there is lack of clarity around the terms ‘reasonably practicable’, ‘due diligence’, ‘reasonable steps’ and ‘reasonable excuse’. For example, while a list of actions is included under the definition of due diligence, it is not clear whether a

responsible person will need to demonstrate that they have done all of these things to prove that they exercised due diligence. The sector should also not have to wait for a judicial interpretation of 'reasonable excuse' to understand what it means in the context of the aged care sector, and we call upon the Department to provide a clear, practical definition, with examples.

Overall, the threshold for potential enforcement or other activity is very broad and vague, and it is unclear how this will work in practice. It is difficult for the sector to assess impacts without understanding rights of review, and how many resources, legal or otherwise, would need to be dedicated to a review process.

Supporters and Representatives

Proposal: Remove and revise

UnitingCare Australia recommends removing all provisions on Supporters and Representatives and not introducing them with the rest of the Act. While we acknowledge the benefits of a uniform, supported decision-making framework, we are concerned about the very serious consequences of introducing these provisions. We call on the Department to reconsider and redraft this proposed framework, and in the meantime continue employing the current agent and representative system administered through My Aged Care.

There is a high risk that these provisions will add extra complexities to pre-existing state-based guardianship arrangements. For example, a state tribunal might put in place a guardianship order and an aggrieved family member could apply for, and get approved, a representative arrangement the state has deemed to be detrimental to the older person. It could also result in the older person being vulnerable to abuse from family members in the event the state does not apply to the Commonwealth for the Representative direction to align with a tribunal ruling. We therefore recommend that further policy consideration is given to the role of guardians and persons in other similar positions, and that States and Territories are consulted to ensure appropriate harmony with their legal settings.

Aged care providers often rely on family members to make decisions in emergency situations and this needs to be accounted for in a supported decision-making framework. Section 28 as drafted offers no flexibility where an older person requires decision making from someone who is not formally appointed as their representative and is a duplication of process given it does not recognise those already appointed as a guardian under State and Territory legislation. It is frightful to think of the situations that could occur if a provider is prevented from engaging with those that have formal guardianship of the person, though are not technically a representative under the Act. Perhaps that guardian has not had the opportunity to register as a representative, or maybe they are not aware that their guardianship arrangement is not valid under the Act. This situation would also put the provider in a difficult position as they would be breaching the Act just by asking a family member for advice or guidance about an aged care consumer in the absence of a formal appointment. This is a likely scenario, and a supported decision-making framework needs to account for this.

Case study

An elderly woman with significant frailty and at the severe stage of her Alzheimer's Disease process was discharged from Hospital into the care of her family. The woman's son was 'next of kin' though had no formal guardianship of his mother. The medical team at the hospital agreed to the son's request to care for his mother at home, as it was understood this was the primary preference of both the son and his mother. The aged care provider conducted several multidisciplinary meetings and collaborated with the family, supporting the older woman to access appropriate equipment, clinical care and personal care. The provider also worked with the family to support the son to gain formal guardianship of his mother. With a flexible approach, the aged care provider was able to engage with the family of the elderly woman and reach an agreement for the most appropriate decisions about her care.

In addition to concerns around policy parameters and any interaction with state-based guardianship arrangements, UnitingCare Australia is concerned about whether the Department's IT systems will be equipped to operationalise a supported decision-making framework, particularly initially where there will be many appointments required to be made. Providers, families and aged care recipients will

be relying on the Department to quickly and efficiently communicate the necessary information about their supporter or representative arrangement. We strongly urge the Department not to introduce a supported decision-making framework until the requisite IT systems are in place and operational, as there may be dire consequences if a critical decision needs to be made, particularly in urgent circumstances, and the infrastructure is not there to facilitate that decision. We also recommend the Department consider what decision-making hierarchy will exist if there is more than one representative, and how any conflicts of interest between representatives, and between guardians that are not representatives, will be managed. The representative arrangement could be simplified by mandating in the Act that there shall be a sole primary representative who communicates the wishes on behalf of any other appointed representatives.

Even with a sound framework, providers will need significant time and resources to implement supported decision-making into their day-to-day operations, including training aged care workers and updating their internal policies and systems. Family members and aged care recipients will also require significant explanation and education on how a framework will operate, particularly on their permitted actions and duties. The Department will need to develop comprehensive guidance so that the sector can prepare for, and transition across to, a new framework.

Needs Assessment

Proposal: Remove and revise

UnitingCare Australia supports the Government's intention to make the needs assessment process as simple, clear and consistent as possible. We support a single assessment system.

We note the needs assessment system has major implications for equitable access to aged care and as such, is a consequential element of the Act. The reform of the needs assessment system presents an invaluable opportunity to tackle the inequities that have plagued the current system. Needs assessments must operate in a way that do not inadvertently create barriers for the most vulnerable.

UnitingCare Australia is concerned the assessment and reassessment system is designed on the basis that all older people have the capacity or support to understand the processes and advocate for themselves. The access and assessment system is built on the presumption that older people have high levels of literacy and an understanding of, and access to, information technology. This is clearly not the case for many older people. These issues effectively place an entry barrier for more marginalised older people. This gives rise to the importance of ensuring there is appropriate provision for, and funding of, formal navigators with the skills to work with marginalised older people, such as the Elder Care Support Program, Care Finders and Professional Advocates like OPAN. These programs and bodies should be funded at a level that enables them to invest significant resources in active outreach and provide their services equally to everyone in the target population, including in regional and remote locations.

There is no mention in the Act of needs assessors working with family and carers or other advocates to determine the needs of the individual and to ensure the individual understands the process. Our understanding is that the new Integrated Assessment Tool is designed to work in collaboration with family and carers and other relevant supporters so this should be provisioned for in the Act.

In the current system, cultural and language differences can act as a significant barrier to appropriate assessment decisions. In particular, the Royal Commission found that assessments for Aboriginal and Torres Strait Islander people may not be culturally safe or sensitive to complex trauma and can result in incorrect assessments. UnitingCare Australia supports COTA and OPAN's position in their Key Issues Paper that there needs to be stronger positive language around supporting diverse needs during the assessment process within the relevant sections of the Act. UnitingCare Australia welcomes the proposed establishment of a dedicated First Nations Assessment Workforce in the future. Further detail on how this will work in practice is essential, including for example, will this workforce support all First Nations assessments or only some? The broader assessment workforce also needs to be culturally safe and trauma aware to appropriately engage with vulnerable population groups. Making this requirement clear in the Act will help

to ensure this occurs. This should flow through to the contracts with the assessment organisations with key performance indicators and associated reviews having a strong focus on cultural safety and trauma aware training and practices.

The assessment system must be built in a way that allows for the flexibility that is needed in regional and remote locations in particular. Currently, there are very long wait times for assessments and reassessments in these locations which has serious implications for care outcomes. In remote locations, aged care providers often have to start providing care before an assessment can take place. Flexibility in who could be considered an approved needs assessor could go some way to ameliorating waiting time issues. For example, the local General Practitioner or even the aged care facilities' Registered Nurse could undertake the assessments in remote locations. If the Registered Nurse undertook the assessments, they could be audited regularly by approved assessment organisations to ensure consistency of approach. This would be a more cost effective, efficient approach.

We note the Consultation Paper includes reference to the potential for assessments to take place online, particularly in remote locations. We would strongly support the Rules making provision for flexible delivery of needs assessment, with the capacity to use telehealth in both regional and remote locations. However, we also note that access to phones and information technology can be particularly difficult in these locations. This highlights the need for flexible approaches that are focused on pragmatic solutions in regional and remote locations, such as utilising the existing clinical workforce. If it is decided that only the approved assessment organisations can undertake assessments in regional and remote areas, these organisations must be funded at a level to ensure they can adequately service these locations. Unless these issues are addressed, there are real risks that the assessment system could act as a major bottleneck to access for highly vulnerable people.

We are also concerned there are major implementation and system risks in the transition to the new single assessment system. We note the tender for organisations to deliver the new assessment system has just been released. Even if contracts are in place by September as outlined in the request for tender, a significant establishment phase will be required to train and upskill staff in the new

assessment tools and processes. There is a risk that staff could make inappropriate assessments without adequate time for transition and training.

As the needs assessment system is so consequential and there is a significant amount of detail missing about how the system will work in practice, particularly for the most vulnerable older people, it is UnitingCare Australia's view that this section of the Act should not be included at this time. Instead, the existing arrangements should apply while the details of the new system and implementation are worked on over the next 12 months in close collaboration with key stakeholders that have a particular focus on vulnerable population groups. This delay would also align with the implementation of the First Nations Assessment workforce. A delay will ensure the Act includes an assessment system that is inclusive and meets the needs of all Australians, including those who are marginalised, cognitively impaired or living in regional and remote Australia. It will also mitigate the very high implementation risk for the Department in trying to establish a new assessment system in an extremely compressed timeframe.

Sector Readiness

UnitingCare Australia shares the Government's ambition for reforming the aged care sector, and we emphasise the need for these reforms to be delivered in a cohesive, clear manner to ensure consistency and clarity for providers and aged care recipients. The project management efforts and system upgrades needed to transition older Australians, aged care workers, responsible persons, and executive staff across to the new framework cannot be underestimated. This will be in addition to the cumulative effect of the many reforms already introduced since the Royal Commission, all of which have required ongoing dedicated resources to upgrade policies and procedures and meet compliance reporting requirements.

Once the final Act and associated Rules are known to the sector, set out below is a list of what providers will need to determine before transitioning to the new system.

- How the Act's new Objects, Statement of Rights and Principles interact with current operating processes.
- How the new regulatory (registration) model interacts with current processes.

- How the new responsible person obligation aligns with the current key personnel framework, and how the new duties and penalties apply.
- How the new provider obligations (including subcontracted providers as 'associated providers') compare to the current obligations including:
 - How the new statutory duty "as far as reasonably practicable, do not cause adverse effects to the health and safety of care recipients" compares to current requirements.
 - How the new "significant failure and systemic pattern of conduct" requirement fits into existing risk and quality framework and processes.
 - What the new single aged care service list regulatory structure means compared to current practice.
 - Comparing the new audit requirements to current state, including new entry powers for the regulator.
 - Comparing the new aged care quality standards to the current aged care quality standards and determining what needs to change.
 - Ensuring incident management systems are compliant with new rules.
 - How the new "ceasing to provide services" obligation compares to the current regime.
 - How the current responses compare to the new "notices and powers" regime of the regulator.
- How the current complaints and compensation framework compares to the new proposed framework (including a Complaints Management System).
- How obligations under the new whistleblower regime compare to current practice.
- How current and proposed consumer attraction and retention processes align to the new assessment model and access pathways.
- How current nominee arrangements compare to the new supporters and representatives arrangement.
- How information handling processes and storage aligns with the new requirements.

Transitioning to the new Act will not be cost neutral for providers, noting there are already significant administrative and regulatory costs the sector is struggling to

absorb. Legislative reforms that require providers to upgrade their internal IT systems and reporting processes are particularly expensive and require significant additional resources. The current aged care funding system does not provide funding or mechanisms for providers to charge additional fees to recoup these regulatory costs. As such, we recommend appropriate funding is distributed to assist providers with the transition to the new Act. At a minimum, providers should be provided with dedicated transition funding through the 2024-25 Budget. We note the proposed timeframes in the roadmap at the beginning of our submission are contingent on providers being funded appropriately to undertake the activities of transition.

Future Consultation and Next Steps

UnitingCare Australia acknowledges the effort that has gone into preparing the Act, and we appreciate being able to participate in this important consultation process. Noting there are chapters of the Act yet to be drafted, and several references to matters prescribed by the Rules, we call on the Department to conduct early, meaningful, open consultation on these components, not just a targeted consultation as is proposed in the Consultation Paper. Providers need the full picture of reform, and time to meaningfully respond to what is being proposed.

The Department needs to provide both sufficient time for these consultations to occur, and comprehensive gap analyses outlining what is new in Rules, compared to the current subordinate legislation, and how the Act has been updated in response to feedback provided through this consultation.

We look forward to working with Government, the Department and the Commission in reforming the aged care sector. Should you wish to discuss any component of our submission in further detail, we would welcome the opportunity to discuss these matters with you. We would also be happy to put you in touch with aged care providers in our network if that would assist.

We thank you for the opportunity to prepare a submission in response to this important consultation.