

## **Response to the Exposure draft of the new Aged Care Act**

**MiCare Ltd – February 2024**

Thank you for the opportunity to provide feedback on the exposure draft of the new Aged Care Act. We are doing so in the capacity of a medium sized not-for-profit organisation which provides a range of community, home based and residential care services for migrants, asylum seekers and refugees. We operate in Victoria and Queensland.

As a general comment we are pleased that the Act makes better provision for the personal needs of individuals from diverse communities. Culturally responsive care is built into the legislation itself, the Statement of Rights and the deliverables of the standards.

Moving through the consultation paper, we are satisfied with the revised Objects but contrary to the views in the consultation paper, the Statement of Rights needs to be balanced by a statement of the responsibilities of those receiving care especially in residential aged care homes. These are congregate settings in which serious compromises need to be made by some individuals for the wellbeing of others.

The same principle applies to home care. It is often the carers that impose their expectations, (often unrealistic) on providers. Staff are usually in the frontline of these expectations. The safeguarding of staff needs to also be considered.

In addition, when older people self-direct their care, they should be obligated to inform the various providers of each other's involvement.

Going to the extreme, we note no reference to processes to be observed in discharging difficult, dangerous or unrealistic individuals from residential or home care. Presumably the Rules (when they are written) will contain this information.

The model of governance seems to provide satisfactory checks and balances of the aged care system but just as more transparency is expected of providers, so should providers expect transparency from the various new authorities, namely the Complaints Commissioner, the Aged Care Quality and Safety Council, the Inspector-General of Aged Care and the Independent Hospital and Aged Care Pricing Authority. Their activities and findings must be made public.

On the question of resident and provider subsidies, an example of who gets what, and when, would be helpful.

A single aged care service list makes sense but there needs to be flexibility in what's on offer. When new types of services are developed, will there be provision for their inclusion, or will the list remain rigid?

The standards express an ideal which means the expectations of older people will be high but in the current economic climate, there will be disappointment and complaints borne of staff shortages, underfunding etc. in both home care and residential care. While reference to sustainability, innovation and skilled staff is made in the discussion paper, it is hardly emphasised even though these are essential for meeting the objects and standards of the Act.

We note the distinction between supporters and representatives of older people and believe Elders should be able to have both. Supporters might be readily available neighbours or friends while representatives might be family members or professional contacts who may be geographically distant from the older person. Understandably, the numbers of each will need to be limited to facilitate clear and efficient lines of communication between providers, Elders and their appointed support personnel. Is there an expectation that supporters and representatives need to be informed about the aged care system and that they are computer literate?

From a provider's perspective, when will providers know the classification of a person entering a residential aged care home? We note that consultation paper number 2 states that a "classification decision will be made by the delegate at the same time as an assessment, or later if the person is

entering an approved residential care home.” The draft legislation says “ For permanent residential care, a classification assessment occurs after the aged care needs assessment and after a registered provider has started delivering funded aged care services to the individual in an approved residential care home.” The thing is, how much later and why the delay? Is it connected to the proposed 3 priority categories which will reflect the urgency of a person’s need for funded aged care services?

We understand that providers will need to re-register for approval every three years. Is this really accreditation by any other name or something different? If reregistration mirrors the current labyrinthine approval process, it will impose an intolerable burden on providers. We accept that in certain circumstances, registration may be for less than three years.

Compensation for older people in respect of injury, serious illness or death raises the question as to what form it will take. The draft legislation suggests that depending on the severity of a case, it may be monetary based on penalty points, but will there be other indirect measures such as administrators being appointed, compulsory training for staff, or de-registration? There are also implications for insurance cover which may render policies unaffordable.

Leading on from this subject, the introduction of penalties for individual staff and Board Directors may deter people from seeking involvement in the aged care industry. We understand there are no parallels in the health and disability sectors which makes these measures punitive.

We see no problem with the repayment of overpayments and subsidies. There are also no issues with managing information. Safeguards are already in place.

The inclusion of statutory duties for operators of aged care digital platforms is interesting. It is not clear, however, which platforms are being referred to. Do they include the websites of aged care providers, the websites of care finders, or, indeed, *My Aged Care*?