

8 March 2024

To Whom It May Concern

AgedCareLegislativeReform@health.gov.au

RE: AnglicareSA Submission: Exposure Draft, Aged Care Act

This letter serves as a submission on the newly released Exposure Draft of the Aged Care Act by AnglicareSA Ltd, a non-profit organisation dedicated to supporting older Australian's to live a full and rewarding life with respect and dignity.

We acknowledge the Government's commitment to improving the aged care system and appreciate the opportunity to provide feedback on the draft legislation. While we support the overall goal of reform, we raise certain concerns requiring careful consideration before implementation.

General Concerns:

Incomplete information: The timely release of the complete information, including subordinate legislation and rules, hinders a comprehensive review of the impacts for our organisation and customers.

Timeframe: Implementing the new Act by 1 July 2024, is unrealistic and requires a longer timeframe for transition and preparation particularly given the delays in providing all relevant information.

Transition period and support: Significant changes require a transition period and consideration of transition resourcing, inclusive of payments, to ease implementation and to minimise disruption to customers.

Review period: The proposed three-year review period lacks consensus. It may be too soon to see meaningful change yet too long to address immediate concerns.

Specific Concerns:

Despite supporting the human rights focus within the new Act, it appears to prioritise consumer rights without balancing the rights and safety of the workforce. This is seen for example through the removal of resident behaviour responsibilities which are expressly included in the current Act and omitted from the new Act. That is, the individual is given all the rights and no responsibilities.

Eligibility: Basing eligibility on long-term issues fails to consider the fluctuating needs of older adults that can be short-term in nature. Care must be taken to ensure that psychosocial needs are given due consideration in the assessment of eligibility. Reassessment timelines will need to be responsive to the rapid changes in older adults' needs.

Registration: The three-year registration period with the possibility of suspension or revocation poses a risk to providers' investments in capital requirements.

Further applying specifically for approvals for individual homes poses a risk in developments. Consideration needs to be given as to whether a pre-approval process is included to give Provider's the confidence to invest in the development and improvements of their sites without concern risk of a non-approval.

Supporters and representatives: The introduction of supporters and representatives in the draft legislation, and the exclusion of state-based substitute decision maker legislation needs further consideration. The definitions of these roles need to be clear and the process for appointing, specifically the representative, needs to be streamlined. Individuals without capacity may be delayed from commencement of services, including admission to a care home as a direct result of process application times in appointing a representative, as they are the only persons who can sign the resident agreements and make decisions regarding their care.

Statutory Duties, offences and penalties: The introduction of statutory duties with increased corresponding offences and penalties needs careful consideration. The Act leans towards a punitive approach instead of continuous improvement. The aged care workforce is already suffering significant shortages and with the introduction of personal liabilities, even for those potentially acting in good faith, will further deter skilled workers from the sector. Additionally, concerns arise regarding whistle-blower protections and the absence of a "good faith" requirement for complaints.

Complex customers: There was no acknowledgment in the Act for Providers on how to handle the complex needs of an individual when they can no longer be cared for safely in their place of residence and cannot be moved on. It is suggested that if Government is serious about high-quality care, then the Act needs avenues that assists Providers deal with these complex customers and the impact on staff and where applicable, other customers. The Act should guide Providers on how to deal with these customers as current funding models so not cover the broader impacts of these complex customers.

Financial and Prudential oversight:

The Commission's ability to handle financial and prudential oversight requires evaluation.

The potential impact of their decisions, e.g., setting liquidity ratios, on business viability needs consideration.

Registration categories:

Definitions are not clear with respect to what services fall within basic care and complex care management. Being able to differentiate between the categories is extremely important to ensure appropriate registrations are made and standards are met.

Excluding Allied Health from clinical services where they are then not subject to the quality standards is concerning given the level of clinical care provided by these professionals to individuals.

Conclusion:

While AnglicareSA recognises the need for reform, the current draft raises concerns regarding implementation feasibility, potential impact on the sector, and clarity of certain aspects. We urge the Government to address these concerns and engage in further consultation to ensure a successful and sustainable aged care system for older Australians.

Yours Sincerely



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AnglicareSA