

05 August 2020

Committee Secretary

Senate Standing Committee on Community Affairs

Parliament House

community.affairs.sen@aph.gov.au

Inquiry into Aged Care Legislation Amendment (Financial Transparency) Bill 2020

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA has over 20 member organisations that cover each State and Territory and are deeply linked to diverse communities across Australia's major cities and country towns. FECCA has had a longstanding presence in policy and advocacy on ageing and aged care systemic issues for CALD Australians. As the leading stakeholder in CALD ageing and aged care policy, it is represented on the Aged Care Sector Committee Diversity Sub-Group where it has worked collaboratively with the Department of Health in developing and implementing the new Diversity Framework and associated Action Plans.

FECCA thanks the Senate Standing Committee on Community Affairs for the opportunity to contribute to this important Inquiry.

Recommendations

FECCA supports the changes stipulated in the *Aged Care Legislation Amendment (Financial Transparency) Bill 2020* and have the following recommendations to strengthen the aim of providing sufficient information for the public to understand how taxpayers' money and client contributions are used to deliver services in residential aged care facilities:

- ***Under Section 9-2A (Obligation to provide Commissioner a financial transparency report) item (2):*** Reports should also include the following information: 1) data on ethnicity and language preference and 2) self-declared service specialisation such as dementia care service, CALD specialist etc
- ***Under Section 9-2A, item (e):*** Total cost of direct and indirect care should include and specify costs related to psychosocial care such as chaplaincy / pastoral care, language support, end-of-life care etc
- ***Under Section 9-2A, item (3):*** Reports under each staff category should also include aggregate information on visa status and professional qualifications
- ***Relevant to Corporations Act 2001 subsection 296 (1B):*** To apply a 'no exemptions rule' for all approved providers receiving over \$10 million in annual federal funding to

file full and complete financial statements with ASIC. We also support calls for the formation of a public register of beneficial ownership, including trusts, and a minimum tax of 30% on distributions from discretionary trusts. To align Australia with global standards, broader trust reforms should also be examined.

Discussion

The most recent Census showed that in 2016, nearly half (49%) of Australians had either been born overseas (first generation Australian) or had one or both parents born overseas (second generation Australian). Over 300 separately identified languages were spoken at home in 2016. About one in five Australians spoke a language other than English at home, and of those 17% reported speaking English not well or not at all.

Migrant communities are ageing at a much faster rate than the population at large. In the 2011 Census, one in five Australians 65 and older are born in non-English speaking countries. It was projected that by the current year 2020, one in three will be from culturally and linguistically diverse (CALD) backgrounds.

The provision of high-level care in residential setting continues to be one of the most critical issues in CALD communities. The current requirements for residential care development are often unable to be met by individual CALD communities at the same time, there remains a strong perception that generalist residential services are unable to meet their needs. Concerns over capacity and governance also involve a number (albeit small) of ethno-specific residential facilities challenging the viability of having the ethno-specific model as the only model for CALD older people.

Data

All current CALD data and reporting, particularly in relation to human services (including health, mental health, aged care, and disability) is inadequate. In the absence of the consistent application of agreed measures, the data is not complete, comparable, or compatible. Inadequate data leaves members of Australian society unheard, unseen, and impossible to reach and the validity of many studies to support policy changes in aged care service provision and outcomes is compromised by not accurately reflecting the diversity of the Australian population.¹

FECCA and its members are concerned that information currently required in financial reports of residential aged care providers is one manifestation of such systemic inadequacies. To illustrate, the [Resource Utilisation and Classification Study](#) reported that CALD facilities in the study incurred no higher costs but a number of CALD facilities contend that catering for dietary needs such as halal and kosher, providing language classes for staff and religious and pastoral care have cost implications.

Further examination is necessary with a representative sampling of CALD specialist and multicultural service providers as well as with a better disaggregation of resident profiles among generalist service providers.

Cost of Psycho-social Care

There are gaps in current aged care practices and focusing reporting requirements to items related to clinical care reinforces these gaps further. This unfortunately perpetuates the perception that psycho-social interventions are less valuable and have no direct impact on the health and well-being of older persons. Financial reports should capture costs residential aged

¹ [Review of Australian Research on Older People from Culturally and Linguistically Diverse Backgrounds, FECCA, March 2015](#)

care facilities incur in providing services for reablement and/or maintenance of function, psycho-social/spiritual needs and End of Life care.

FECCA often receives feedback from CALD Australians in residential facilities who are not receiving culturally appropriate care. These experiences reflect a lack of consideration for the cultural and spiritual needs of an individual, and an inability to convey these needs to care staff. Communication regarding key issues such as Dementia or Palliative Care needs to be understood by care teams and clearly conveyed to residents and their families to address cultural implications around the impact of Dementia or provision of Palliative Care. Such communication issues could lead to adverse outcomes especially where clinical interventions become necessary.

Staff mix and ratios and reliance on migrant workers

A recent Australian Research Council-funded project '[Markets, Migration & the Work of Care in Australia](#)' found a significant increase in the proportion of overseas-born workers in aged and disability care from 33% in 2011 to 37% in 2016, and in personal care assistance from 43.7% to 50.2% for the same period. In the same period, the share of overseas-born workers throughout Australia's total workforce increased only slightly, from 28% to 30.6%. The study also found that Australia's migrant care workers have a higher level of formal qualifications (though not necessarily relevant to their employment in frontline care) than their Australian born peers. They increasingly come from non-English speaking countries, with recent migrants more likely to arrive on temporary visas.

We would like to reiterate the issues raised by Professor Sara Charlesworth of the Royal Melbourne Institute of Technology in her witness statement to the Royal Commission on Aged Care (Exhibit 11-52 – WIT.0381.0001.0001):

- The increasing aged care work force deficit in Australia and evidence of an increasing reliance on a workforce on various temporary visas, including international students, and nurses or care workers whose overseas qualifications are not recognised.
- While there have always been significant numbers of overseas born workers in the sector, they have, in the past tended to be permanent migrants with full rights and protections of people with citizenship or permanent visa status.
- Temporary migrants face increased vulnerabilities including, among others a lack of access to social protections such as Medicare, insecurity in work conditions, occasional requirement to act as informal interpreters, without language skills being part of a position description, or appropriately remunerated.

FECCA believes financial reports with clear staffing categories is an important tool in understanding providers' level of capability to deliver care. The [ANMF National Aged Care Staffing and Skills Mix Project Report 2016](#) found that on average, residents in aged care needed 4 hours and 18 minutes of care each day and the ideal skills mix would consist of 30% registered nurses, 20% enrolled nurses and 50% care workers. Current practice showed that residents receive only 2 hours and 50 minutes of care each day, significantly less than the minimum time required to "avoid missed care".

It is short-sighted to leave the responsibility of caring for vulnerable older persons to migrant workers who are themselves vulnerable. The spread of Covid-19 infection due to aged care staff working in several facilities is a dire repercussion of a system where workers are financially challenged.

In the absence of a mandatory minimum ratios and staffing levels, having these data in financial reports could further assist in understanding the economic rationale of aged care staff ratios and having a clear pathway to permanent residency or citizenship.

Fiduciary duty

The Explanatory Memorandum to this Bill noted that “In 2018-2019, governments spent over \$20 billion on aged care, with approximately 66% of this funding spent for residential aged care”. Moreover, the Department of Health’s discussion paper [“Managing Prudential Risk in Residential Aged Care”](#) noted that, “Residential care providers hold around \$25 billion of resident lump sum accommodation payments, up from around \$15 billion in 2014. It is essential that these resident monies are prudently invested and that providers are able to refund these payments when residents leave care.”

A [key study](#) commissioned by the Australian Nursing and Midwifery Federation (ANMF) in 2018, reported that Australian taxpayers, via Government subsidies and funding, contribute around 70% of the expenditure in aged care. This is around 96% of the of the total funding on aged care from Commonwealth and State Governments. The report also shared evidence on how the top six aged care providers have gained profits of about \$210 million from 2016 to 2018 having received over \$2.17 billion in taxpayer funded subsidies shedding light on the various loopholes, corporate structures and discretionary trusts aged care service providers employ to avoid paying their fair share of tax.

Conclusion

The relevant provision of the [UN Principles of Older Persons \(1991\)](#) states:

14. Older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy and for the right to make decisions about their care and the quality of their lives.

The [Charter of Aged Care Rights](#) protects consumers receiving Australian Government funded aged care services by clearly stating that they have the “right to be properly looked after, treated well and given high quality care and services.”

FECCA believes any organisation receiving any amount of taxpayer money has a fiduciary duty and must be held to standards of transparency in financial reporting and be publicly accountable. This imperative is even more urgent in light of the Royal Commission’s Interim Report summarising neglect in aged care.

FECCA would welcome the opportunity to contribute to more detail on matters relating to this issue. For further information please contact please contact FECCA CEO Mohammad Al-Khafaji at ceo@fecca.org.au or on (02) 6282 5755.