15. K Mannix

Full name: K Mannix

Question 1

All should be taken into account.  Payment for services should be particularly emphasised.  The frail aged have sold all their worldly goods to obtain enough money for a bond.  For them to be neglected, poorly cared for, poorly fed and on occasion harmed should attract **penalties**, not protestations of having 'learned' from 'mistakes' by aged care providers and governments.

Question 2

Institute **remedies**.  Contracts are almost useless.  The Aged Care Act is almost useless. The Aged Care complaints bureacracy is absolutely useless.

Present regulation serves only to protect governments and providers, not frail aged citizens and their exhausted families. Institute real remedies for failure to meet standards, and institute substantial bonds aged care providers must lodge with governments in case of substantial care failures or business failures.

Question 3

The ALRC, with respect, should just read the newspapers.  There are, daily, examples of abuse of the frail aged in Australian aged care facilities, facilities which have (allegedly) met all the requisite accreditation standards.

Question 4

The ALRC might obtain original complaints sent to the Aged Care Complaints Commissioner and its predecesor, the Aged Care Complaints Scheme; the Health Care Complaints Commission in NSW and other complaints bodies.  These organisations are largely in the business of burying complaints.  However what is needed is primary source material, rather than mediated commentary by 'experts'.  There is a study centre, CEPAR, which purports to be a research centre for population and ageing.  What it does is to identify ways for governments to limit their financial liability.  If the ALRC is interested in evidence, it should look to the primary sources: existing complaints from real residents and relatives of those in aged care facilities.

Question 5

No opinion

Question 6

No opinion

Question 7

no opinion

Question 8

None.  You would not trust the Public Guardian, would you?

Question 9

no opinion

Question 10

no opinion

Question 11

Evidence from Aged Care Complaints complainants; from HCCC; from many, many inquiries over the years; from cameras in aged care facilities; from the media; from Registered Nurses' Association evidence and that of other allied professionals, such as Physiotherapists, and from the substantial rise in social media commentary in the last few years, eg [www.agedcarecrisis.com](http://www.agedcarecrisis.com)

Question 12

Aged Care Assessment programmes do not do what the public expects, with regard to what is contained in the Aged Care Act 1997 and Quality Principles.  The public expects that there are objective measures to be met by aged care facilities which are then tested by Aged Care Quality assessors.  What those assessors actually do is to find ways around these measures, for example testing a complaint about the quality of food offered by checking a paper menu, rather than checking the food, or by addressing complaints about lack of staff by applying the legislation (no RNs mandated, no staff ratios, no minimum staff) RATHER than looking at the specific care failures in the individual institution.  Although all claim that 'appropriate care' is what is called for (and therefore what will happen) 'appropriate' is never defined. Assessors rely on the provider's interpretation of what is appropriate because there are no objective standards.  Even where there are objective standards (e.g. Accreditation Standard 2.15 'Care recipients oral and dental health is maintained') no assessment team ever finds that a facility has failed to meet this standard, even though dentists repeatedly report that there is a dental and oral health crisis in aged care facilities all over the country.

Aged Care Assessment programmes need stricter standards.  They should take into account residents/relatives testimony; they should report to all stakeholders on every visit, and not just the provider; they should be answerable for their judgements.  A month after the Aged Care Quality Assessors deemed that our aged care facility had sufficient staff to 'appropriately care' for its residents, one resident disappeared into the night (due to two broken locks) and was later found by police, in the rain, with her foot caught in a wire fence.  It took three hours for the 3 undertrained carers (minding 74 residents) to realise she was missing. They did not know what to do for this poor lady when she was finally found, suffering from hypothermia.  This was just one event.  If the ALRC is interested in further examples they can be supplied.  Of note is that the Quality Agency made that visit - allegedly unannounced - for the purpose of reviewing staffing levels, the day before there was a large public meeting of residents and relatives to discuss the issue of poor staffing levels. We do not believe there was no contact between the provider and the Quality Agency ahead of this visit.  The Quality Agency appears simply to be a tool of government and the providers; there is little evidence that the Quality Agency does anything whatsoever to ensure adherence to basic community accepted standards.

Question 13

Penalties.  My father's aged care facility recently removed an essential medication from his medications list without a doctor's approval.  That is abuse arising from a decision made on his behalf. I discovered this six months after it occurred. To take this further I would have to go to the Aged Care Quality Agency, who is more likely than not to find that it was 'just' an error that has been rectified. It would take me some weeks of work to achieve this outcome.  However if there was a substantial remedy for a clear case of medical error, this would encourage providers not to make such errors. It would perhaps help providers to understand the importance of engaging staff capable of supervising those workers who make these mistakes, who are not paid enough and who are not trained enough, to be responsible.

Question 14

CDC should have an obligation to ensure that the elder has an advocate to assist them in making their choices.  If no member of the family is available to perform this task it should be a requirement that an independent person with legal training acts in that capacity, and that this person be entirely unrelated to the provider.

Question 15

1. Mandated ratios of RNs to residents to be added to the legislation.

2. Australian Skills Authority says that Assistants in Nursing get an average of 15 weeks' training - this is insufficient and should be expanded and mandated.

3. AINs need to be a regulated workforce,  just as are those who work in childcare.

4. Providers should have their surplus/profit limited by regulation, if they fail to use any of the millions they hold  interest free loans in the provision of proper care.

5. Providers should have to pay government a substantial bond, to be retained in the event of repeated complaints or in the event of financial collapse.

6. Assessment agency and complaints agencies must serve the interests of the citizen-consumer, and not just aged care Big Business/Big Church.  Complainants must have the right to de-select 'conciliation' as the default pathway used by complaints processes and have matters actually investigated.

7. With the massive increase in profitability since the changes of 1 July 2014, aged care providers must be held to account under contract law for the services they frequently fail to provide.  Governments will come under increasing pressure by angry citizens, who have sold everything to be able to supply a bond, only then to find that the services promised are not delivered, or inconsistently delivered.

All aged care providers, including those defined as religious institutions, should be transparent and accountable, due to the massive level of subsidy they receive. This means they should have to supply complete financial statements which should be made public.  Those whose profit exceeds a certain level should become subject to paying back a proportion of Commonwealth subsidies.  At present aged care is simply a massive transfer of assets from the Commonwealth/private citizen to the private/charitable sector.

8. Quality in aged care should shift from funding deficits in health (as it does under ACFI) to funding for wellness.  Providers should be funded to ensure there is generous physiotherapy, not funded because they claim a resident has dementia. (Providers claim everybody has dementia).  Providers should be funded when they supply creative and stimulating activities and diversional therapies.  The present means of funding means that providers are encouraged to overclaim for health deficits, and dare it be said, to actively lie about health conditions.  This claim was made authoritatively in Submission 185 to the Commonwealth Aged Care Workforce Enquiry.

Question 16

What restrictive practices? AINs are not regulated at all; they are barely trained, and often have limited functional English, and there is no requirement to have a registered nurse at all in Australian aged care facilities.

Any restrictive practices arise from governments handing over ordinary rights of Australian citizens to aged care providers. For example, our aged care provider wants to add 10 more rooms to the existing 74.  When the plans go to council, residents will NOT be notified, because they are not 'neighbours'.  The law appears not to cover them as stakeholders worthy of consultation.

Question 17

Penalties.   Impose real, substantial, make-sure-it-hurts penalties for failure to report.  Teachers must report - why not aged care workers?

Question 18

Make them independent.  Presently complaints mechanisms are functions of government, with a mandate to favour 'conciliation' processes for the purpose of ensuring public confidence in the aged care system.  Ironically this approach is causing the reverse effect.  The HCCC's reputation could not be worse if it tried; the Aged Care Complaints Commissioner and it's predecesor, the ACC Scheme, is in the business of reducing legitimate complaints to 'concerns' that are at most, a subject for 'learnings' by the provider.  If I run you over in my car, it will not matter that I did not 'mean' to run you over.  I will be subject to civil and possibly criminal proceedings.  Not so in aged care.  Unless the complaints mechanisms begin to act with integrity toward the frail aged and their advocates, what will happen is an increase in reporting to the police. Complaints mechanisms need to manage risk by acknowledging failures and by imposing penalties.  By failing to do this, Complaints mechanisms simply add to rising public outrage.

Question 19

Financial penalties. Limitations on their accreditation.  Providers to have to supply substantial bonds, as does the mining industry, to the Commonwealth.

Question 20

Aged Care advocacy services and community visitors are government funded.  They provide some limited assistance to the public but ultimately they know where their money is coming from.  They would need to be much better funded over a longer time period to ensure they were free to act, beyond advising people about basic information they could obtain from the internet.

It is interesting that the ALRC is not interested in the role of relatives as responsible advocates.  We are the main group losing sleep and fighting to keep our frail aged safe. Yet the spirit of this inquiry apparently seeks to portray relatives as the group most likely to steal/otherwise abuse the finances of those we care for.  It is the providers who are stealing/financially abusing the frail aged, aided and abetted by the Commonwealth Government.

Question 21

Ensure that no aged citizen is forced to sell all their property to access quality aged care.  Consider the actual wealth of the providers (no one is going broke, are they?) remove the insulting accounting fiction that millions of dollars in bond monies are actually 'liabilities' on their balance sheets; alter the regulatory framework that does not sufficiently link fees for service with services actually supplied.

The elder abuse elephant-in-the-room is the financial stripping of this Depression generation, who have saved and worked hard (my father still pays tax) for the benefit of Big Business and Corporate Church. This is the way citizens will see it, no matter how hard government and the providers try to shift the focus to those the frail aged intend as their beneficiaries.

Question 22

No opinion

Question 23

No opinion

Question 24

no opinion

Question 25

no opinion

Question 26

no opinion

Question 27

no opinion

Question 28

Encourage family agreements to be made when the elder is in good health and of sound mind.  The only way is to have an advocate.  There would be little virtue in handing over this function to government or the private sector as these would simply pay themselves huge fees without there being any certainty that the elder's wishes were being adhered to.

Question 29

no opinion.  I am my father's power of attorney and enduring guardian.  He would be dead by now, due to aged care and hospital and medical mismanagement,  if he had not appointed me.  It is hard to know how there could be authoritative evidence of financial misappropriation by POAs, unless there were rigourous spot checks on individuals, which would be time consuming, expensive and without assurance of an outcome.

Question 30

The State Department of Health.  Then at least hospitals would be encouraged to understand that POA and Enduring Guardianship have some legal force.  Unlike 'next of kin', a dubious hospital designation, with no meaning outside a hospital environment.

Question 31

I cannot imagine how this could work unless the broader legislative environment was strengthened.  All a POA could do is report.  I do that to whatever authority I can already, but there has never been any redress for the many abuses my father has sustained in the hospital and aged care systems.

Question 32

no opinion

Question 33

None, unless you create real remedies.

Question 34

If you include real remedies.

Question 35

They need to be rewarded by serving the interests of the elder, and not by serving the interests of their institution.

Question 36

Health professionals are some of the worst abusers of the frail aged.  Basically, once you are over 80, the health system is not interested in you at all.  Hospital doctors will fail to tell you of real medical options, because they have decided your elder is not worth putting the effort/expense into.  Others treat the frail aged as if they were an able bodied patient, and become irritated when the frail aged person cannot respond according to their hospital timetable/protocol/time-frame.

I never let my father go to hospital unless I go with him now. I believe that anyone over 80 needs to have an active advocate in the hospital system, or the elder will be neglected and will receive only limited treatment, and sometimes (as in our case) will be positively and permanently damaged by encounter with the hospital system.

Question 37

The models we have now could work.  You do not need to re-invent everything.  What you have to do is to apply the law and the regulation as they are intended to operate (or at least as we are informed they are intended to operate).

Question 38

Hospitals are much more likely to cause abuse than identify it.  Hospitals and their staff are then protected by the HCCC.  The ALRC needs to re-imagine its underlying pre-suppositions, namely that relatives are the cause of all the abuse, and not the hospitals, medical staff, aged care, governments.

Question 39

Civil and administrative tribunals do not support individuals, however worthy their case, against organisations or corporations. So, no.

Question 40

Use Skype

Question 41

No, just fix the ones you have.  There is irony in the further abuse of elders and indeed all citizens in the suggestion that what we need is yet more dispute resolution mechanisms at a cost of ? to the taxpayer.  Use the manifold mechanisms that already exist.  If this can't be done, shut them down and start again.

Question 42

Yes.  There should be a specific offence that relates to long term, demonstrable neglect.

Question 43

The abuse suffered by elders is specifically to do with their relative level of powerlessness.  This should be addressed.  Those in authority/in a position of relative powerfulness should be more responsible than those in the reverse condition. Penalities should be specifically applied to those guilty of abusing anyone substantially weaker than themselves, especially when this occurs in an aged care setting that the elder has paid for.

Question 44

no opinion

Question 45

Anyone employed or contracted in an aged care setting

Question 46

Police (and doctors, and hospitals, and governments) need to see elders as citizens as deserving of the same rights as anyone else.  Therefore you ought not to be able to justify restraint, say, because the elder is allegedly demented.  Police also have far to much latitude in what they choose to investigate.

Question 47

Give them a proper hearing for a start and impose real penalties.

Question 48

Impose penalties.  Occasionally prosecute an aged care facility where there is systemic failure.

Question 49

It might give the elders, and their families, some closure if their abuse and/or neglect and the manifold failures of care are acknowledged. I do not imagine there should be a role for financial compensation, as for the most part, the elder has died by the time the abuse has been considered by authorities.

Question 50

Civil penalties should be imposed.  At present all abuse falls into the various complaints mechanisms, which specifically fail to impose any penalty (or find that any wrong has occurred).

Other comments?

The aged care industry appears to have governments on the run.  They are massively subsidized by government and by citizens and are massively profitable.  These organisations cannot move offshore.  They are unlikely to go out of business.  Why, therefore, is government so puny in the face of industry threats?  It is no surprise that capitalists behave like capitalists. It is, however, surprising and very alarming when governments fail to act like governments.  Governments must begin to govern for its citizens, including the frail aged, and not, exclusively, for the Aged Care barons.