

ALRC 72

The coming of age - new aged care legislation for the Commonwealth

Review of legislation administered by Department of Human Services and Health.

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This Report reflects the law as at 1 February 1995

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Commission Reference: ALRC 72

The Australian Law Reform Commission was established by the *Law Reform Commission Act 1973*. Section 6 provides for the Commission to review, modernise and simplify the law. It started operation in 1975.

Terms of reference

HEALTH, HOUSING AND COMMUNITY SERVICES LEGISLATION

COMMONWEALTH OF AUSTRALIA

Law Reform Commission Act 1973

1. I, MICHAEL DUFFY, Attorney-General of Australia, at the request of the Minister for Health, Housing and Community Services (the Minister), refer to the Law Reform Commission for inquiry and report under the *Law Reform Commission Act 1973* section 6 the laws administered by the Minister that relates to programs for the provision of services by the Commonwealth or for the funding by the Commonwealth of services provided by other persons or agencies (the programs).
2. This reference includes the Acts listed in Part 1 of the Schedule, but excludes the Acts listed in Part 2 of the Schedule.
3. This reference does not extend to making recommendations about the underlying policy of the programs.
4. The Commission is to make recommendations on how Commonwealth legal policies (including administrative law, secrecy, privacy and criminal law), social justice and human rights should be reflected in new program legislation. The Commission is also to advise on the common elements to be included in program legislation. The Commission is to have regard to the need to ensure proper standards of accountability while retaining flexibility and innovation in the delivery of services.
5. The Commission is to make such interim reports under this reference as may be desirable to enable the progressive implementation of the recommendations on a program by program basis. The first interim report is to relate to the aged care program and is to be given not later than 12 months after the date of this reference with subsequent interim reports to be delivered to a timetable to be settled between the Commission and the Department of Health, Housing and Community Services. The final report is to be given not later than 3 years after the date of this reference.
6. In carrying out its work under this reference the Commission is to:
 - work closely with the Department of Health, Housing and Community Services and the Office of Parliamentary Counsel; and
 - consult, among others, relevant federal Departments and agencies including the States, representatives of service recipients, community welfare organisations and other persons and bodies with a special interest in the programs concerned.

DATED: 18 August 1992

Michael Duffy
Attorney-General

Schedule

Part 1 - Acts included in this reference

Aged or Disabled Persons Care Act 1954

Aged or Disabled Persons Hostels Act 1972

Child Care Act 1972

Commonwealth and State Housing Agreements Acts

Defence (Re-establishment) Act 1965 Parts V and VA and section 59 in respect of powers and functions under those Parts, except in relation to payments to individuals

Delivered Meals Subsidy Act 1970
Disability Services Act 1986
Disability Services (Transitional Provisions and Consequential Amendments) Act 1986
Epidemiological Research (Confidentiality) Act 1981
First Home Owners Act 1983
Handicapped Persons Assistance Act 1974
Health Insurance Act 1973
Home and Community Care Act 1985
Home Deposit Assistance Act 1982
Homeless Persons Assistance Act 1974
Home Nursing Subsidy Act 1956
Home Savings Grants Act
Housing Agreements Acts
Housing Assistance Acts
National Health Act 1953
Narcotic Drugs Act 1967 Sections 9, 10, 11, 13, 19 and 23, subsection 24(1) and so much of the rest of the Act (except sections 12 and 22) as relates to powers and functions under those provisions.
Nursing Homes Assistance Act 1974
Re-establishment and Employment Act 1945 Part VIII. Part XI Division 1 so far as it relates to Part VIII, Part XI Division 3 except in relation to payments to individuals and Part XXI in relation to those provisions
Smoking and Tobacco Products Advertisements (Prohibition) Act 1989
Social Welfare Commission (Repeal) Act 1976
State Grants (Home Care) Act 1969
State Grants (Housing) Act 1971
States Grants (Nurse Education Transfer Assistance) Act 1985
States Grants (Paramedical Services) Act 1969
Supported Accommodation Assistance Acts
Tuberculosis Act 1948
World Health Organization Act 1947

Part 2 - Acts excluded from this reference

Acoustic Laboratories Act 1948
Australian Institute of Health and Welfare Act 1987
Commonwealth Serum Laboratories Act 1961
Health Insurance Commission Act 1973
Health Insurance (Pathology) (Fees) Act 1991
Health Insurance (Pathology) (Licence Fee) Act 1991
Hearing Services Act 1991
Medical Research Endowment Act 1937
National Food Authority Act 1991
Quarantine Act 1908
Quarantine (Validation of Fees) Act 1985
Therapeutic Goods Act 1989
Therapeutic Goods (Charges) Act 1989

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¹ The recommendations in the report and statements of opinion and conclusion are those of the members of the Commission. They are not necessarily shared by the consultants or nominees nor by the Departments or organisations with which they are associated.

Abbreviations

AAT	Administrative Appeals Tribunal
ACACs	Aged Care Advisory Committees
Assessment Teams	Aged Care Assessment Teams
AIP	Approval In Principle
ARC	Administrative Review Council
CAM	Care Aggregated Module
capital assistance	Money paid on a recurrent basis to nursing homes, usually run by private for profit organisations, to help pay the interest on loans taken to upgrade, build or rebuild premises
capital funding	Money paid to non-profit nursing homes and hostels to buy land and buildings, build, demolish or upgrade premises and purchase equipment
Care Packages	Community Aged Care Packages
Commission	Australian Law Reform Commission
CVS	Community Visitors Scheme
Department	Department of Human Services and Health
DNCB	Domiciliary Nursing Care Benefit
DVA	Department of Veterans' Affairs
FDP	Financially Disadvantaged Person
General Conditions	Obligations imposed by delegated legislation with which organisations receiving funding to provide hostel care or Care Packages must comply
HACC	Home and Community Care Program
IPPs	Information Privacy Principles in the Privacy Act 1989 (Cth)
OCRE	Other Cost Reimbursed Expenditure
OPC	Office of Parliamentary Counsel
PCAI	Personal Care Assessment Instrument
program	Aged Care Program
non-government	All nursing homes whether run by profit or non
nursing homes	profit organisations, apart from State or Territory government homes
nursing homes with exempt status	Nursing homes which can charge residents a higher fee in exchange for a higher quality of accommodation and services
recurrent funding	Funding paid on a regular basis to cover running costs
RCI	Resident Classification Instrument
SAM	Standard Aggregated Module

Summary of recommendations

Principles for new legislation

There should be an objects clause

1. The Commission recommends that the new legislation should include an objects clause that contains the following objects to be pursued within the resources available:

- to enable older people who need support to maintain their dignity and quality of life and to remain living as independently as possible by providing funding to help organisations provide aged care services and support services either in the community or in places established specially for the purpose
- to recognise and support the carers of older people by providing direct financial assistance and support services to them
- to develop and administer programs which are innovative and flexible so that they best meet the identified needs of older people and their carers and maximise their choices
- to ensure that the program provides services and support which are available on an equitable basis and appropriate to all members of the community irrespective of race or ethnic background, religion, culture or language, disability, geographic location, socio-economic status, gender and sexual orientation
- to ensure consumers enjoy the same rights as a to ensure that the program provides services and support which are available on an equitable basis and appropriate to all members of the community irrespective of race or ethnic background, religion, culture or language, disability, geographic location, socio-economic status, gender and sexual orientation.
- to ensure consumers enjoy the same rights as all other Australians.
- to ensure that services are provided where they are needed, are targeted to people who need them most, and are affordable
- to ensure services meet a specified level of quality
- to ensure the program is administered so that there is co-ordination and continuity of care across health and community services for older people
- to develop and administer programs in a cost effective way
- to develop policies, administer programs and evaluate them in the light of appropriate consultation
- to ensure that older people and their carers, and service providers, are informed about the care and other support services available to them and their rights
- to develop and administer programs consistently with Australia's human rights obligations to older people
- to ensure that services are accountable to the Commonwealth for the funding they receive (para 3.11).

Legislation should be straightforward and easy to understand

2. The Commission recommends that there should be a single aged care Act that has a logical structure and is written in plain language. It should include an overview that describes the program (para 3.13).

Consultation and planning

Legislation should reflect the importance of consultation

3. The Commission recommends that the new legislation should reflect the importance of consultation to the Aged Care program (the program). One of the objects included in the legislation should be to develop policies, administer programs and evaluate them in the light of appropriate consultation (para 4.8).

More appropriate needs based planning indicators should be developed

4. The Commission recommends that to further refine the aged care planning process the Department, together with the Australian Bureau of Statistics, should develop more appropriate indicators of need than are currently used (para 4.19).

Legislation should set out the outcomes of the planning process

5. The Commission recommends that the new legislation should outline the process of needs based planning, including regular review of the planning ratios, and the outcomes the Commonwealth seeks to achieve. These outcomes should include

- an open, transparent and flexible planning process
- the identification and meeting of community needs, including the needs of special needs groups
- the provision of an adequate opportunity for the community in general and special needs groups in particular to participate in the planning process
- ensuring the community, especially special needs groups in the community, is informed about the planning process, related decisions and reasons for these decisions
- regular evaluation of the effectiveness of the planning process including
 - the appropriateness of data identified as being necessary to meet needs
 - the planning formula and the target ratios in the light of new data (para 4.20).

Planning decisions should not be merits reviewable

6. The Commission recommends that planning decisions should not be subject to review on their merits.

Getting a service

Legislation should give power to fund assessment services

7. The Commission recommends that the legislation should give the Minister power to fund State and Territory governments and other organisations for the purpose of ensuring the provision of services to assess older people for Commonwealth funded aged care services. The legislation should set out in broad terms the kinds of matters that should be dealt with in conditions of funding (para 5.17).

Legislation should set out outcomes for the assessment process

8. The Commission recommends that the new legislation set out the outcomes which the assessment process aims to achieve. The outcomes should include ensuring

- user participation in the assessment process (for example, by encouraging the involvement of the client, carers, family members and advocates)

- maximum consumer choice and fully informed user consent to care arrangements made after assessment
- clients, carers and other representatives are fully informed about the assessment process, its effect on them, their role in it and their complaint and appeal rights
- equity of access and referral to appropriate services for all clients including people of non-English speaking backgrounds, people from Aboriginal and Torres Strait Islander communities, people living in rural or remote areas and people with dementia
- assessment teams are multi-disciplinary and can access a range of disciplines, skills and experience sufficient to make an accurate, holistic assessment of a person's needs in a culturally appropriate way
- the assessment process considers the physical, medical, psychiatric, psychological and social needs of clients
- people are referred as promptly as possible to appropriate services they are eligible to receive, including services that will help the older people to do the things they could do before they became ill or disabled (for example rehabilitation services) (para 5.18).

Legislation should set out the steps in the assessment process

9. The Commission recommends that the new legislation should set out the basic steps in the approval process, including

- the eligibility criteria to get a particular level of aged care
- the steps required to be approved as eligible, including assessment by an Assessment Team to see if the eligibility criteria are met (while making it clear that being approved as eligible to receive a service does not automatically entitle a person to an aged care place)
- requirements on approval, including written notification to applicants of
 - what service or services the person is eligible to receive
 - the period of approval
 - if the approval is limited in anyway, how
 - obligations attached to approval and in what circumstances the approval can be revoked
- what happens if approval is not granted, including notification in writing of
 - reasons for the decision
 - appeal rights (para 5.20).

Review of decisions about a person's eligibility for aged care services

10. The Commission recommends that the decision to grant approval to a person as eligible to receive a Commonwealth funded aged care service should be reviewable first by the Minister and then by the Administrative Appeals Tribunal (AAT) (para 5.24).

Access and equity

Principles of access and equity should be included in the objects clause of the legislation

11. The Commission recommends that the objects clause of the legislation should include the objects

- to ensure that the program provides services and support which are available on an equitable basis and appropriate to all members of the community irrespective of race or ethnic background, religion, culture or language, disability, geographic location, socio-economic status, gender and sexual orientation
- to ensure that services are provided where they are needed, are targeted to people who need them most, and are affordable (para 6.39).

Special needs groups should be provided for in legislation

12. The Commission recommends that the legislation should include a provision regarding special needs groups. The provision should say that the special needs groups include

- people from non-English speaking backgrounds
- people from Aboriginal and Torres Strait Islander communities
- people who live in rural or remote areas
- people who are financially or socially disadvantaged.

The legislation should give the Minister authority to direct funds to initiatives designed to improve access to aged care services and equity within the program for special needs groups (para 6.40).

Review the level of access to hostels for people who are financially disadvantaged

13. The Commission recommends that the Commonwealth review the level of access to hostel places for people who are financially disadvantaged to ensure the levels are appropriate (para 6.47).

Other groups with special needs - people with dementia

14. The Commission recommends that the new legislation should be flexible enough to ensure that a full range of appropriate care options can be developed to provide for the needs of people with dementia and their carers (para 6.52).

Other groups with special needs - people with a disability

15. The Commission recommends that the new legislation should be flexible enough to ensure that a full range of appropriate care options can be developed to provide for the special needs of older people with disabilities and their carers (para 6.55).

Veterans

16. The Commission recommends that the new legislation should not distinguish between veterans and other older people. Any distinctions should be catered for as a matter of administrative practice (para 6.60).

Services for people living in the community

17. The Commission recommends that the Commonwealth review its institutional and community based respite schemes to ensure that

- consumers have the opportunity to choose from a range of more flexible services which meet their needs and which might include, for example, a mix of residential, in home services and dedicated respite services
- people seeking respite services have help to do so, for example, through centralised respite care booking services
- residential services are adequately compensated for the costs of providing respite services and administrative requirements are not so onerous that they deter services from providing respite services
- consumers have access to respite services in an emergency and for shorter, more frequent breaks
- people from special needs groups and people with dementia are not disadvantaged in getting access to respite services and have their needs met in the delivery of these services
- people from Aboriginal and Torres Strait Islander communities have access to flexible and culturally appropriate models of respite care, for example 'reverse respite'
- consumers are informed about the range of available respite services and how to access them (para 7.26).

Domiciliary nursing care benefit

The DNCB should be called the 'carer's support allowance'

18. The Commission recommends that the domiciliary nursing care benefit (DNCB) should be called the 'carer's support allowance' in the new legislation (para 8.3).

The Commonwealth should review the policy focus of the benefit

19. The Commission recommends that the Commonwealth review and clarify the current policy focus of DNCB (para 8.8).

The Commonwealth should review eligibility requirements and the assessment instrument

20. The Commission recommends that, as part of the review of the policy focus of the benefit, the Commonwealth should examine the eligibility requirements for DNCB and consider whether they should take into account broader tests of dependency than they do now. The assessment instrument for DNCB should be reviewed to consider whether it should measure other matters bearing on the level of domestic or personal care required by the person being cared for, as well as the person's medical status and physical dependency (para 8.9).

Focus on adequacy of care when assessing living arrangements

21. The Commission recommends that the new legislation should not include the current test that the carer and care recipient must live in the same home. Instead, living arrangements should be one consideration when assessing whether the care provided is 'adequate' (para 8.10).

Allow approval to provide care to more than two people

22. The Commission recommends that the new legislation focus on whether the care being provided to the care recipient is adequate. The current legislative provision which says a carer can be approved to provide care to no more than two people should not be included (para 8.11).

The Department should better promote DNCB

23. The Commission recommends that the Department should actively promote DNCB, particularly to special needs groups (para 8.14).

Consider the particular needs of people from Aboriginal and Torres Strait Islander communities

24. The Commission recommends that the particular needs of people in Aboriginal and Torres Strait Islander communities should be considered by both health workers assessing, and the Department in approving, DNCB. The requirement to consider the special needs of people from Aboriginal and Torres Strait Islander communities should be clearly set out in revised assessment guidelines (para 8.16).

Widen the choices for who can perform the assessment for DNCB

25. The Commission recommends that the class of people who can assess people for DNCB should be widened to include Assessment Teams, community health workers and Aboriginal health workers. Assessment should be able to be done either by an Assessment Team or by any two of the following: a doctor, a nurse, a community health worker or an Aboriginal health worker (para 8.20).

Ensuring approved carers know their obligations

26. The Commission recommends that the legislation clearly set out the obligations attached to approval for DNCB and in what circumstances approval can be revoked (para 8.24).

Decisions about DNCB should be reviewable by the AAT

27. The Commission recommends that the decisions to not grant approval to a carer for DNCB, to revoke approval and to recover overpayments should be reviewable by the AAT (para 8.25).

Promoting quality aged care services

The quality control scheme for Care Packages should be reviewed

28. The Commission recommends that 12 months after the publication of this report the Department should have reviewed its standards monitoring procedures for Care Packages to determine whether its procedures are adequate to identify all services that are not meeting standards. If the review finds they are not adequate, the review should determine what procedures will ensure that services not meeting standards can be identified (para 9.16).

Standards monitoring statements should have a user friendly summary

29. The Commission recommends that the Department include in the front of each standards monitoring statement a short, plain English summary of the service's compliance with the standards. The summary should highlight the shortcomings and the achievements in its service delivery (para 9.24).

Statements should be more widely distributed

30. The Commission recommends that the legislation should require that the Department make standards monitoring statements available in the central, State and regional offices and send them to the service concerned, the residents' committee concerned (if one exists) and local Assessment Teams. The Department should also arrange for the statements to be sent to Commonwealth funded advocacy services, relevant State, Territory or local government departments with responsibility for aged care, HACC services, libraries and other organisations with which older people and their representatives may have regular contact (para 9.25).

Services should display a notice about the statement

31. The Commission recommends that legislation require services to have a notice on their notice board in a public area about the existence of a standards monitoring statement and stating how to get a copy. Services

should also be required to produce the statement at the request of consumers or their representatives (para 9.26).

Notices and statements should be culturally appropriate

32. The Commission recommends that the Department include in its access and equity strategy that where necessary and appropriate it will make standards monitoring summaries and notices available in community languages and support services who may wish to convey information in these statements orally by tape or in person (para 9.27).

Statements should include a clear statement that action plans are not binding

33. The Commission recommends that standards monitoring statements should clearly state, at the front of the report, that any action plan included in the statement does not bind the service but indicates an intention to meet the standards in the future (para 9.28).

Commonwealth and State and Territory regulation

34. The Commission recommends that the Commonwealth should continue to consult with State and Territory governments about the regulation of aged care services with the aim of ensuring there is no unnecessary regulatory duplication, conflict or gaps and that, as far as possible and appropriate, standards are uniform around Australia. Any changes in regulation should preserve or enhance rights and protection for aged care service consumers (para 9.33).

There should be standards review panels catering for all aged care service types

35. The Commission recommends that new legislation should establish a Standards Review Panel in each State and Territory which has the power to review the Minister's declaration that a service has not met standards. The panels should be available to review decisions in relation to all aged care services including hostel care, nursing home care and Care Packages (para 9.38).

User rights

One charter of rights and responsibilities for residential care which is better promoted

36. The Commission recommends that the new legislation should include one charter of rights and responsibilities for residential care. It recommends that the Commonwealth develop strategies to promote the charter better to older people and their representatives, the aged care industry and the wider community (para 10.15).

Charter for recipients of Care Packages

37. The Commission recommends that the new legislation should include a charter of rights and responsibilities for recipients of Care Packages (para 10.16).

Compliance with charters should be a condition of funding

38. The Commission recommends that new legislation should require that services comply with the charter as a condition of funding. This would give the Department the right to apply sanctions against a service if it failed to comply with the charter. The charters should also be Schedules to the new legislation (para 10.17).

Legislate implied terms covering the same types of matters now found in written agreements

39. The Commission recommends that the new legislation should set out implied terms for each service type dealing with the same types of matters which are now covered by written agreements. These terms would be terms of the contract, whether written or oral, which exists between the consumer and the service provider. There should be core terms which apply to all aged care service types and special terms applying to a

particular service type where appropriate. One of the implied terms should be that the service comply with the charter of rights and responsibilities. The legislation should provide that

- services may, but need not, offer a written agreement to residents receiving nursing home care
- services must offer a written agreement to persons receiving hostel care and Care Packages dealing with specified matters which should include at least the following
 - what charges the consumer must pay and how the charges are calculated
 - the agreed date of entry or when service provision will start
 - for residents of hostels, the payment and refund of entry contributions, including administrative fees and what the service may keep from the entry contribution
 - for people getting Care Packages, what services are to be provided
 - tenure provisions
- written agreements must set out the implied terms
- no written agreement can change or leave out implied terms
- it is a condition of recurrent funding that services comply with the implied terms (para 10.26).

Extend volunteer visitors schemes to isolated people getting Commonwealth funded aged care services

40. The Commission recommends that the Community Visitors Scheme (CVS) should be available to hostel residents who are isolated. Care Package recipients who are socially isolated should have access to HACC funded friendly visitor services or the CVS (para 10.40).

Legal framework for funding support services

41. The Commission recommends that the legislation should give the Minister power to grant funding to approved organisations, such as advocacy services and the Community Visitors Scheme, to meet the objectives of the program (para 10.49).

Legislating outcomes for advocacy services and the Community Visitors Scheme

42. The Commission recommends that the legislation should set out the outcomes which advocacy services and the Community Visitors Scheme aim to achieve (para 10.50).

Rights of entry for advocates and community visitors

43. The Commission recommends that it should be a condition of receiving Commonwealth aged care funding that services allow entry to people working for Commonwealth funded support services, such as advocates and community visitors, during reasonable hours. Representatives of support services should be able to enter services at the request of consumers or on their own initiative to perform activities designed to achieve the stated service outcomes. There should be a duty on service providers to provide reasonable help and facilities to enable representatives to achieve the stated outcomes of the support service (para 10.51).

Participation of older people in the management of services

44. The Commission recommends that the legislation should reflect the principle that older people should be encouraged and given every opportunity to have their say in decisions made by services which affect them. It should say that when consumers choose to be involved providers should allow and encourage that involvement. This principle should be set out in the outcome standards and charter and be an implied term of the contract between the service and the consumer (para 10.57).

Information for consumers

National aged care information strategy

45. The Commission recommends that the program should develop a coherent and continuing national strategy for providing information about aged care to older people and their carers. The strategy should put into effect the Commonwealth's commitment to effective communication with the community about what it does in the aged care arena and what services are available. The strategy should be adequately resourced and regularly evaluated (para 11.10).

Services should be required to provide certain information

46. The Commission recommends that the legislation should, as a condition of funding, require all Commonwealth funded aged care services to provide information on specified matters to consumers and their representatives before they begin to receive the service. The information should cover at least the following matters

- the nature and scope of the service
- what fees are charged, including any refund arrangements
- the quality control scheme which applies to the service and how to get a copy of the latest standards monitoring statement (if applicable)
- user rights and responsibilities
- leave and respite arrangements
- complaints mechanisms (internal and external) and other support services such as advocacy services and the community visitors scheme (if applicable)
- what funding the Commonwealth contributes toward the service.

The Department of Human Services and Health, in consultation with aged care industry and consumer groups, should develop a package of information to help service providers comply with this obligation. It should cater for the particular needs of older people and special needs groups (para 11.16).

Complaints about service providers

Internal complaints mechanisms

47. The Commission recommends that the legislation require, as a condition of funding, that an aged care service should have to show that it has an established procedure for dealing with complaints made about the operation or management of the service by or on behalf of the older people who receive the service. The Department should issue guidelines setting out the essential features that complaints mechanisms must have. These features should include the minimum requirements recommended by the Administrative Review Council. The guidelines should outline a model or models that service providers can choose if they do not wish to develop their own (para 12.12).

External complaints mechanism

48. The Commission recommends that the legislation should provide for an independent, external body to deal with complaints made by older people or their representatives about Commonwealth funded aged care services. The Commission recommends that the existing Aged Care program complaints officers be retained (para 12.23).

Powers the external complaints body should have

49. The Commission recommends that the new legislation should give the independent body the powers necessary to deal with disputes quickly and effectively. The body should be able to make recommendations to services, the Department and the Minister. It should have an appropriate structure and appropriate procedures to ensure that it is able to meet the needs of consumers of aged care services (para 12.24).

Duplication with State and Territory complaints mechanisms should be avoided

50. The Commission recommends that where a State or Territory has an appropriate independent complaints body able to deal with older people's complaints about an aged care service provider, the Commonwealth should negotiate with, and where agreement is reached, authorise that body to deal with complaints about aged care service providers, including complaints under Commonwealth legislation. Where there is no State or Territory mechanism the Commonwealth should negotiate with that State or Territory to enable the Commonwealth body to handle complaints about aged care service providers which might otherwise be outside its jurisdiction (para 12.26).

Information protection

Offences to deter the unauthorised use of information by Departmental officers

51. The Commission recommends that the legislation should create offences to deter the unauthorised use and disclosure of personal information held by the Department. The new legislation should provide that it is an offence

- to release or use, without authority, personal information held by the Department
- to attempt to obtain personal information the Department holds if release of that information is unauthorised and the person seeking it knows or should reasonably know its release is unauthorised
- to offer to supply or hold oneself out as being able to supply personal information the person is not authorised to supply if the person knows or should know that supply of that information is unauthorised.

These offences should apply to the officers of any bodies established under the legislation (para 13.19).

Minimising overlap in information collection and storage requirements

52. The Commission recommends that the Department establish whether there is duplication in the collection and storage of information by Commonwealth and State and Territory authorities. If there is duplication, the Department should co-operate with State and Territory authorities to remove it (para 13.20).

Protecting personal information held by services

53. The Commission recommends that the legislation require, as a condition of funding, that service providers collect, store, use and disclose personal information only in a manner that protects the privacy of that information (para 13.27).

Services to comply with privacy principles

54. The Commission recommends that the legislation require, as a condition of funding, that aged care service providers comply with the Information Privacy Principles of the *Privacy Act 1988* (Cth) amended to make them suitable for aged care services. The amended principles should be developed by the Department and the Privacy Commissioner. They should be included in the legislation. The principles should cover the collection, storage, use and disclosure of personal information held by service providers (para 13.28).

Guidelines should be developed which expand on the principles

55. The Commission recommends that the Department should develop specific guidelines on how services should comply with the privacy principles set out in the new legislation (para 13.29).

Funding service providers

Incorporation

56. The Commission recommends that service providers should have to become incorporated as a precondition of being granted approved provider status (para 14.6).

The approval process

57. The Commission recommends that the new legislation should set out a clear, simple structure for the approval process. The steps in the process should be

- approval as an approved provider
- approval in principle
 - for recurrent funding
 - for capital funding
- approval for capital funding
- approval for recurrent funding (para 14.9).

Funding decisions should be transparent

58. It recommends that the new legislation should clearly set out matters that affect the rights and obligations of service providers. Matters that should be set out in the legislation include

- the grounds on which decisions are made
- conditions attached to approval
- what action the Commonwealth can take if conditions are breached
- the applicant's review rights (para 14.10).

Consistency in the regulation of service types

59. The Commission recommends that there should be common grounds of approval and conditions of funding for all types of services (nursing homes, hostels and Care Packages), unless the particular nature of the service type justifies different grounds for approval or different conditions (para 14.11).

Promoting flexibility

60. To promote the flexible funding of aged care services which better meet community needs the Commission recommends that the legislation should give the Secretary power, where the service provider agrees, to

- waive conditions attached to approval for an AIP or final funding approval
- vary conditions attached to an AIP or funding approval

- add conditions of approval (para 14.16).

Approved provider status

61. The Commission recommends that the new legislation should provide for a single approved provider status for all organisations that wish to apply for funding to provide aged care services. The criteria against which an application for approved operator status is assessed should be in the legislation in general terms. They should be matters that go to the suitability of an organisation to be involved in the aged care industry in any capacity. They should include

- relevant management experience
- honesty and efficiency
- previous history in the industry, if any (para 14.21).

Approval in principle (AIP)

62. The Commission recommends that there should be two principal types of AIP - capital and recurrent. The categories of AIP should be the same for nursing homes and hostels. There should also be an AIP for organisations applying for exempt nursing home status (para 14.25).

Criteria for deciding to grant a capital or recurrent AIP

63. The Commission recommends that there should be common criteria on which a decision to grant a capital or recurrent AIP for nursing homes and hostels is made. They should include

- approved provider status
- planning requirements
- the feasibility of the project
- the financial viability of the project
- the proposal for service delivery (para 14.28).

Common conditions attached to an AIP

64. The Commission recommends that there should be common conditions attached to a capital or recurrent AIP for all services. They should include

- continuing approved provider status
- suitable premises
- project feasibility
- financial viability
- Commonwealth interests protected
- suitable land (para 14.31).

Categories of final funding approval

65. The Commission recommends that there should be two broad categories of final funding approval:

- capital approval
- recurrent approval (para 14.32).

Core capital funding conditions

66. The Commission recommends that the legislation should provide a set of core provisions which apply to all services receiving capital funding from the Department. There should also be program and project specific conditions, where appropriate (para 14.37).

All parties with an interest in a capital project should be subject to obligations

67. The Commission recommends that all parties with an interest in a capital funded service should be subject to conditions and obligations. Conditions should apply to the owner of the land on which a service is being built and the operator of the service (para 14.38).

The period of obligation to provide the service

68. The Commission recommends that the legislation should require that, as a general rule, capital funding agreements should impose an obligation to provide the service for which funds are being given for a period of 30 years. This period may be more or less depending on specified factors which should be clearly communicated to all parties (para 14.39).

The Commonwealth should take security

69. The Commission recommends that the legislation should require that as a general rule the Commonwealth should take security over the land on which a capital funded aged care service is built. The landowner should not be permitted to sell or otherwise dispose of the land or to mortgage it or give some other form of security over it without the approval of the Secretary of the Department (para 14.40).

Repayment of capital grants

70. The Commission recommends that the legislation should give the Secretary power to require repayment of a capital grant in full or in part. It should prescribe matters to be taken into account in making this decision including

- whether the need for the service still exists
- how long the service has been operating since the grant was made
- the age and condition of the building and whether there is a need to upgrade it
- the use to which the building will be put after it is sold (for example, whether it is to be used for another community service)
- the proportion of the Commonwealth's contribution to the value of the land or building.

The legislation should also provide that other matters to be considered may be specified in the capital funding agreement between the Department and the landowner or service operator (para 14.41).

Determining the amount that should be repaid

71. The Commission recommends that the legislation should provide that the amount of capital funding to be repaid should reduce in accordance with the length of time the service has operated. The whole of the grant should be repayable if the service closes within the first 10 years of the 30 year period. The obligation to repay will decrease more rapidly in the last 10 years of the 30 year period. The obligation to repay will end after the service has operated for 30 years, unless it has been extended by additional funding (para 14.42).

Common conditions for recurrent funding approval

72. The Commission recommends that there should be common conditions which attach to all recurrent funding approvals. These should cover such matters as

- the approved provider status
- the service provider must provide the care for which approval was given
- the approval and classification of clients (where required)
- the number and type of approved aged care places
- priority of access requirements
- user rights and responsibilities
- obligations relating to quality care
- client fees that may be charged including extra charges
- the provision of information to clients
- complaints handling (para 14.45).

Power to fund special projects or initiatives

73. The Commission recommends that the legislation should give the Secretary the power to make a grant of money to a person or organisation, including a service provider, to further the objects of the legislation by funding special projects or initiatives (para 14.46).

Funding process should be set out clearly in the legislation

74. The Commission recommends that the new legislation should set out for each type of aged care service

- how the amount of funding a service provider is entitled to is worked out
- how a service provider makes a claim for payment
- the processes the Commonwealth uses to check that the right amount of money has been paid
- when and how the Commonwealth recovers money or pays a service provider extra (para 14.50).

Simplify the terminology used to calculate nursing home funding

75. The Commission recommends that the new legislation should use simple terminology to describe the components of nursing home funding. It should include a simple explanation of the calculations used to determine how much a service is paid. It should not use the concept of a 'fee'. It should instead focus on how the Commonwealth works out what it actually pays to the service. It should regulate how much a person receiving nursing home care pays by making it an obligation of funding that a service provider may not charge more than an amount determined by the Minister (para 14.53).

Review of decisions in the funding process

76. The Commission recommends that the following decisions should be reviewable by the AAT:

- the decision to grant approved provider status

- the decision to extend the AIP period
- the decision to grant final approval to an AIP holder for capital and recurrent funding
- the decision to approve additional recurrent funding for nursing homes
- the decisions to vary conditions, impose additional conditions, extend a suspension of funding approval, revoke funding approval, defund a service after a declaration of non-compliance with standards and impose other sanctions
- the decision about how a recurrent funding formula is to be applied
- the decision to reclassify a resident receiving nursing home or hostel care
- the decision to alter the amount of recurrent funding paid to a nursing home (para 14.59).

Nursing home fees review committees of inquiry should not be retained

77. The Commission recommends that decisions currently reviewable by Nursing Home Fees Review Committees should instead be reviewable by the AAT (para 14.60).

Accountability

Record keeping

78. The Commission recommends that the legislation should impose a duty on service providers to keep records. The legislation should give the Secretary power to specify what records or class of records service providers must keep, who must keep them, where they should be kept and the minimum time for which they must be kept (seven years for all service types). The legislation should provide that a former service provider must keep records in a place approved by the Department for a specified period after ceasing to be a service provider (para 15.9).

Powers of Commonwealth officers

79. The Commission recommends that the legislation should give authorised Commonwealth officers whose duty it is to monitor aged care services powers necessary to do so effectively. It should include powers

- to enter premises where or from where an aged care service is being provided, during business hours or with the operator's consent
- to enter a nursing home or hostel for the purpose of monitoring standards or verifying resident classifications during extended hours (for example, from 7 am to 7 pm, 7 days a week)
- to enter a nursing home or hostel at any time only in the case of an emergency or where the officer has a reasonable suspicion that the health and well being of residents are seriously at risk
- to enter a nursing home or hostel pursuant to a monitoring warrant that would authorise the use of 'reasonable and necessary force' (obtainable from a magistrate who is satisfied that it is reasonably necessary to enter the premises for the purpose of ensuring that the requirements of the legislation are being met and that a recent request to enter, in writing, has been refused)
- to enter premises where the Secretary has approved that records be kept, during business hours, or at any other time with the occupier's consent
- to enter other premises, with consent or pursuant to a warrant
- to search for, direct production of, examine and copy documents

- to ask questions of service operators, their staff and other relevant persons
- to direct third parties to answer questions or produce documents in specified circumstances (para 15.14).

Duties of cooperation on management, staff and other third parties

80. The Commission recommends that the legislation impose specific duties of co-operation on the management and staff of aged care services and relevant third parties. They should include duties

- to help and co-operate with officers
- to allow entry during specified hours
- to answer questions
- to obey authorised directions
- to provide information (para 15.19).

Duty to notify the Department about significant changes in circumstances

81. The Commission recommends that legislation should require service providers to notify the Department of any change in circumstances that may affect the service's entitlement to funding, in particular, if its viability is seriously threatened. The legislation should clearly specify the indicators that will trigger this requirement (para 15.22).

Enforcing obligations of funding

82. The Commission recommends that the new legislation should give the Secretary power to impose sanctions for non-compliance with conditions of funding. The Secretary should have the power

- to vary conditions of approval
- to suspend an approval
- to revoke an approval
- to stop paying funding to a nursing home or hostel for new residents or to an organisation providing Care Packages for new clients for failing to comply with a condition of approval
- to revoke the service providers' right to classify residents and appoint another person to classify residents where a substantial number of residents have been found to be incorrectly classified.

The legislation should give the Minister power

- to appoint an administrator² to manage a nursing home, hostel or service providing Care Packages where
 - other available sanctions have been applied without success and the health and welfare of clients is threatened or
 - a service is in financial difficulty and is in serious danger of closing or

² The role of these administrators will be different from the role of financial administrators appointed under the Corporations Law.

— the service provider so requests

- to issue a public declaration naming a service that is in breach of a condition and the nature of its breach.

The legislation should set out the process for making a decision to impose a sanction. Decisions by the Secretary or the Minister to impose sanctions on a service provider should be reviewable by the AAT (para 16.17).

PART I — THE REFERENCE

1. The reference

Background

The reference

1.1 On 18 August 1992 the then Attorney-General, Mr Michael Duffy, gave the Australian Law Reform Commission a reference to inquire into and report on a large number of Acts administered by the Department of Health, Housing and Community Services (as it then was). The Attorney General did this at the request of Mr Brian Howe, then Minister for Health, Housing and Community Services. The Minister for Human Services and Health is Dr Carmen Lawrence. Dr Andrew Theophanous is Parliamentary Secretary to the Minister and has executive responsibility for the law reform program of the Department of Human Services and Health (the Department), as it is now called. The reference covers Acts that deal with Commonwealth service provision and Commonwealth funded service provision in areas including aged care, child care, disability services and health.

The terms of reference

1.2 The tasks for the Commission in this reference are

- to make recommendations on how Commonwealth legal policies (including administrative law, secrecy, privacy and criminal law), social justice and human rights should be reflected in the new legislation
- to advise on the common elements to be included in the program legislation (with a view to achieving consistency as far as possible across programs)
- to have regard to the need to ensure proper standards of accountability while retaining flexibility and innovation in the delivery of services.¹

The Commission is also required by its legislation to ensure that its recommendations are consistent with the provisions of the International Covenant on Civil and Political Rights.

Tension in the terms of the reference

1.3 The terms of reference for the Commission's inquiry explicitly state that the reference 'does not extend to making recommendations about the underlying policy of the programs' of the Department. The terms of reference do, however, ask the Commission to make recommendations about how 'social justice and human rights should be reflected in new program legislation'. It is difficult to consider how legislation should reflect these matters without asking some questions about program policy. In the course of its critical examination of aspects of the Aged Care program (the program) the Commission became aware of some inequities. The Commission takes the view that its terms of reference require it to address these issues. New legislation should not entrench aspects of program policy which result in inequitable outcomes for older people and their carers.

Aims of the project

1.4 **Problems with existing legislation.** The existing Acts administered by the Department were passed at different times over a long period. Some have been amended many times and contain a great deal of complicated detail. Others do not contain enough detail on important issues. Many are difficult to use and understand. They often regulate the same types of matters in different ways for no apparent reason.

1.5 **New legislation.** The ultimate goal of the reference is the production, by the Office of Parliamentary Counsel, of new, simplified and consistent Acts covering the four program areas of aged care, child care,

disability services and health. The Commission's role is to make recommendations about how best to ensure that the new legislation reflects Commonwealth legal policies, and social justice and human rights. Officers of the Commission have worked closely with officers of the Department responsible for developing the drafting instructions for the new legislation.

The Commission's work

Publications

1.6 In the course of this project so far the Commission has published two discussion papers and a report.

- ***Aged care discussion paper.*** The Commission published a discussion paper, *Aged Care*,² in April 1994. The discussion paper describes the program but does not include the home and community care program (the HACC program). It critically examines the program from the point of view of the consumers of aged care services, service providers and the Commonwealth. It makes provisional proposals for change and asks questions. It invites comment on the issues raised in the paper.
- ***Child care discussion paper.*** The Commission published a discussion paper, *Child Care*,³ in October 1993. The discussion paper describes the Commonwealth's Children's Services Program. It critically examines the program from the point of view of families with children, service providers and the Commonwealth. It makes provisional proposals for change and asks questions. It invites comment on the issues raised in the paper.
- ***Child care report.*** The report, *Child Care for Kids*,⁴ was tabled in federal Parliament on 9 November 1994. The report makes recommendations on the issues raised in the discussion paper. In making the recommendations the Commission carefully considered the community views expressed during consultations and in submissions on the discussion paper.

This report

1.7 The issues raised and the proposals made in the aged care discussion paper are considered in this report in the light of the Commission's consultations since it was published. The report recounts views expressed during consultations, in written submissions and focus groups. These views do not necessarily represent the views of the Commission. The report makes recommendations that should inform new simplified aged care legislation. The report is divided into four parts:

- The reference (chapters 1-3)
- Access to services (chapters 4-8)
- Quality care and user rights (chapters 9-13)
- Funding services (chapters 14-16).

This report does not cover the home and community care program

1.8 This report does not address the HACC program. The HACC program involves the Commonwealth and State and Territory governments jointly funding services to help frail older people and younger people with disabilities to stay in their own homes and to support their carers. State and Territory governments administer the day to day aspects of the HACC program. Projects and funding levels are approved jointly by State and Territory and Commonwealth Ministers. While the Commission was doing its work on aged care HACC was being reviewed

- by the House of Representatives Standing Committee on Community Affairs
- jointly by the Commonwealth, States and Territories.

The Commonwealth government has provided an interim response to the report of the House of Representatives Standing Committee on Community Affairs, *Home But Not Alone: Report on the Home and Community Care Program*.⁵ It will provide a more detailed response to both reviews once the Commonwealth/State review has been finalised.⁶ The HACC program is an integral part of the Commonwealth's strategy to provide care for older people. Because of the two major reviews of the program the Commission deferred consideration of it. The Commission will examine and report on legislation governing the HACC program at a later stage.

Consultation

1.9 Consultation with federal, State and Territory agencies. In its work on this reference the Commission has worked closely with officers of the Department. It consulted a number of federal bodies whose interests and work were relevant to this inquiry. They included

- the Administrative Review Council
- the Privacy Commissioner of the Human Rights and Equal Opportunity Commission
- Aboriginal and Torres Strait Islander Commission (ATSIC).

The Commission also consulted State and Territory agencies with aged care responsibilities. At their invitation it briefed the Settlement Advisory Council and the National Older Australians Advisory Council on its work.

1.10 Appointment of honorary consultants. Following its usual practice the Commission appointed a number of honorary consultants to help it with its inquiry. The names of consultants are listed at the beginning of this report. The Commission acknowledges with appreciation the contribution they have made to its work. Consultants took time out from busy work schedules to attend meetings to discuss the Commission's proposals and draft documents and gave other detailed comment and assistance. Their expertise and insights were very valuable.

1.11 General community consultation. Following the publication of the aged care discussion paper in April 1994 the Commission consulted a wide range of organisations and individuals with a special interest in aged care in every State and Territory in Australia.

- **Distribution of discussion paper.** The Commission distributed the aged care discussion paper widely (over 15 000 copies were distributed). It sent them to every aged care service provider receiving Commonwealth funding and to relevant peak organisations and interest groups. The Commission made special efforts to reach older people, including those receiving aged care services, and their carers. It prepared and distributed an extract of the discussion paper in larger print. As well, the Australian Pensioners' and Superannuants' Federation, the NSW Accommodation Rights Service and the ACT Disability, Aged and Carers Advisory Service distributed the paper to their members and constituents on the Commission's behalf.
- **Meeting with key interest groups.** In May 1994 the Commission invited representatives of key interest groups to meet and discuss the proposals in the discussion paper. Industry organisations, union and consumer groups were represented at the meeting.⁷
- **Information workshops.** Every person receiving a discussion paper was invited to attend an information workshop. The workshops were advertised in the national and regional press. They were held in every capital city and in some regional areas. At the workshops the Commission gave information about the reference, talked about the discussion paper and gave participants an opportunity to make comments. The workshops were attended by industry representatives, service providers, older people and their relatives, academics and other people with an interest in aged care services.

- **Public hearings.** In each Australian capital city the Commission held a public hearing at which members of the public were invited to speak. Ninety six organisations and individuals made oral submissions at these hearings. The names of the people who made oral submissions are listed in Appendix 1.
- **Submissions.** The issues and proposals raised in the discussion paper formed a sound basis for consultation and resulted in significant and detailed comment. The Commission received 306 written and oral submissions including submissions from State and Territory governments, service providers, advocacy services, Aged Care Assessment Teams, older people and their carers, people of non-English speaking backgrounds, Aboriginals and Torres Strait Islanders, people living in rural and remote areas and trade unions.

1.12 **Focus groups.** The Commission asked the Australian Pensioners' and Superannuants' Federation to hold and report on a number of focus groups for residents of nursing homes and hostels and their relatives. The information the Commission received from the Federation's report helped it to take into account the views of older people receiving aged care services and their relatives who may otherwise find it difficult to participate in the Commission's community consultations.

1.13 **Consultation with Aboriginal and Torres Strait Islander groups** . The Commission wrote to representatives of Aboriginal and Torres Strait Islander councils and Aboriginal and Torres Strait Islander aged and health care services asking for their comments on the discussion paper. The Australian Pensioners' and Superannuants' Federation conducted special focus groups with Aboriginal people. A representative of the Commission also attended the 'Desert Triangle' workshop organised by the Alice Springs office of the Department of Human Services and Health. The workshop examined aged care, cross border and remote issues for Aboriginal communities.

Constitutional issues

1.14 There are a number of heads of constitutional power that support aged care legislation. They include the appropriations power,⁸ the power to make grants to the States,⁹ the Territories power,¹⁰ the corporations power¹¹ and the external affairs power.¹² Perhaps the strongest source of constitutional power is the social welfare power, which provides that the Commonwealth may make laws regarding the provision of

maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services ... benefits to students and family allowances.¹³

This would include providing services for people who, because of their age, experience some degree of incapacity or an inability to provide adequately for their own health care needs.

Other relevant inquiries and initiatives

Administrative Review Council

1.15 The Administrative Review Council (ARC) has reported on what review of administrative decisions there should be for programs funded by the Department. The Council released an issues paper in June 1993 and consulted widely in the second half of 1993. Its final report was released in August 1994.¹⁴ In preparing this report the Commission has taken account of the principles and approaches adopted by the ARC in its final report.

Plain English

1.16 The Department engaged Dr Robyn Penman, of the Communication Research Institute of Australia, to advise on plain English techniques for the new legislation. Dr Penman identified the main users of the Department's legislation and the problems they have in understanding and using the legislation regulating the programs. She also identified a number of features that would help make the legislation more 'user friendly'.

International Year of the Family

1.17 The National Council for the International Year of the Family produced a discussion paper, *The Heart of the Matter*, in March 1994 and a final report, *Creating the Links: Families and Social Responsibility*, in November 1994.¹⁵ Professor Bettina Cass, the Chair of the Council, is also a part-time Commissioner working with the Commission on this reference.

Aged Care program reviews

1.18 ***Past reviews*** . A number of reviews of the program have been conducted since the early 1980s. The main ones include

- the House of Representatives Standing Committee on Expenditure (the McLeay Report)¹⁶
- the Senate Select Committee on Private Hospitals and Nursing Homes (the Giles Report)¹⁷
- the Nursing Homes and Hostels Review¹⁸
- the Residents' Rights in Nursing Homes and Hostels Report (the Ronalds Report)¹⁹
- the Mid Term Review of the Aged Care Reform Strategy Stages 1²⁰ and 2.²¹

1.19 ***Current or recent reviews***. Reviews of the program currently being or recently conducted include

- the Senate Community Affairs References Committee Validation of CAM and SAM Funding of Nursing Homes²²
- the Nursing Home Consultative Committee (the Keys Committee), established to consider and advise the Minister on options presented by three recent reports²³
 - Raising the Standard: resident centred nursing home regulation in Australia²⁴
 - Review of the Structure of Nursing Home Funding Arrangements Stage I²⁵
 - *Resident Classification Instrument Documentation Consultation*²⁶
- the Review of the Structure of Nursing Home Funding Arrangements Stage 2²⁷
- an efficiency audit by the Australian National Audit Office, specifically examining the nursing home validation process.²⁸

Reviews of the HACC program are discussed in paragraph 1.8 above.

Acknowledgments

1.20 The Commission thanks all those who contributed to this report by accepting appointment as honorary consultants, by making written or oral submissions and helping the Commission in its consultations by attending public hearings and information workshops and participating in meetings and focus groups. The Commission particularly thanks the many officers of the Aged Care program who provided invaluable assistance in helping the Commission understand the policies and operations of the program. The Commission also thanks officers of other divisions of the Department of Human Services and Health who have helped it during the inquiry, especially Lee Emerson, formerly of the Strategic Development Unit.

2. Aged care program

Introduction

2.1 This chapter describes how the existing Aged Care program (the program) is funded and supported.

- It describes the policy objectives of the program (para 2.2).
- It gives a brief overview of the international and social context in which the Commonwealth funds aged care services and describes the trends in the program (para 2.3-9).
- It describes the current legislation regulating the program (para 2.10).
- It describes the role that individuals, the community and local, State and Territory governments play in supporting services for older people and their carers (para 2.11-14).
- It looks at how the Commonwealth funds individuals and organisations to provide aged care services and describes other special initiatives such as those promoting the rights of older people (para 2.15-50).

Policy objectives

2.2 The main objective of the program is to provide a coherent framework of

- care services to support frail older people who can and wish to continue to live at home and their carers
- residential care and support services for frail older people who are unable to live at home.

The program aims to ensure that these services

- promote the independence and quality of life of older people
- meet the assessed care needs of older people
- are of the highest possible quality, and
- are cost effective.

International context

The world population is getting older

2.3 The world is experiencing a significant growth in the proportion of older people in the population. In 1950, 200 million people were aged over 60 years worldwide. By 1975 this figure had increased to 350 million and, by United Nations' estimates, is expected to rise to 590 million by the year 2000 and 1 110 million by 2025. The 2025 figure is an increase of some 224% over the 1975 figure, even though the expected general population increase for this period is 102%.²⁹ The fastest growing segment of the population in many countries is now people over 80 years old.³⁰

Trends in aged care

2.4 Although cultural, economic, political, religious and even traditional differences make international comparisons on the provision of aged care and legislative policy difficult there are some clear trends in the industrialised world. These are

- the increasing cost of and demand for health services
- a growth in expectations of quality care
- the continuing predominance of 'informal' care provided by family and a growing demand by carers for recognition of this role
- a move towards community care and away from institutional care.

In many Organisation of Economic Cooperation and Development (OECD) countries social and personal care assistance such as home health care, respite care and other similar services are publicly supported and are usually provided on the basis of individual need, not monetary means. The cost of nursing home and home care services is usually met by a combination of government and direct out-of-pocket payments. In all OECD countries governments provide a large proportion of the funds.

Models of aged care service delivery

2.5 No country has a system of aged care service provision similar to the Australian system. Models in overseas countries for funding long term care service delivery range from Sweden's publicly funded programs to the primarily private pay option in the United States. Many countries have broadly comparable service options but there are differences in the way services are coordinated, in the way they are integrated with health, social and housing services and in the way they are funded.

Future directions

2.6 Public authorities in OECD countries are actively reforming their policies and service structures to support better the care needs of older people. A recent OECD study on aged care reached a number of conclusions.

- Older people's care needs are diverse and individual and cannot be met by a single method.
- Needs are met and will continue to be met by a combination of informal and formal care supported by both private and public resources.
- The nature of private contribution to care is changing as both family structures and income levels change.
- The formal ways of providing care are drawn from a wide range of policy areas (for example housing and health) and include many innovative services.
- This calls for a new approach to public policy management. It should accommodate diverse and shifting individual needs and focus the necessary resources in a flexible and effective way.³¹

Social context

Our population is getting older

2.7 As in the rest of the world, the number and proportion of older people in Australia is steadily increasing. This increase is particularly significant for people over 75 years of age. The main reasons for this increase in numbers and proportion are longer life expectancy due to medical and health advances, the ageing of the post-war migrant population and the ageing of the so called 'baby boom' generation. It is estimated that by the year 2051 22% of the population will be over 65 years of age and nearly 11% over 75 years.³² The likelihood of disability, including dementia, increases substantially as people get older. The majority of older people are women so more women than men use aged care services.³³ The early post-war migrant population is also ageing and it is anticipated that by 2001 approximately 25% of people aged 60 years or more will be people of non-English speaking backgrounds.³⁴

Trends in the program

2.8 *Finding the right balance of care.* From the early 1980s Commonwealth policy has moved away from funding aged care in institutions, particularly nursing homes, to providing care services to people living in the community. This change was driven by cost concerns and a recognition that institutionalised care is not the preferred option of most frail older people. There has been a reduction in the proportion of Commonwealth money spent on nursing homes in favour of hostel and community care.³⁵ Only a small proportion of Australians over 60 years live in nursing homes and hostels. However a larger proportion of people over 85 years live in nursing homes or hostels.³⁶

2.9 *An integrated system of care.* The program seeks to ensure that aged care services are planned as an integrated system of care. It recognises the links between the three main program elements of nursing home, hostel and home and community care. The program has also placed increasing importance on developing policies to improve the links between aged care and housing and between acute and long term care. It is also addressing areas of special need, such as care for people with dementia. The Commonwealth's *Aged Care Reform Strategy*, which sets directions for changes to this 'balance of care', includes as part of a number of stages the development of new Commonwealth aged care legislation to underpin and consolidate reforms.

Current Commonwealth legislation

2.10 Most of the program is now governed by a complicated array of legislation, delegated legislation³⁷ and funding agreements between the Minister and service providers. The *National Health Act 1953* (Cth) regulates nursing homes and the Domiciliary Nursing Care Benefit as well as other aspects of the Commonwealth's health program. The *Aged or Disabled Persons Care Act 1954* (Cth) deals with capital funding for nursing homes. It also regulates the funding of hostels and Community Aged Care Packages (Care Packages). The legislation is complex, has been amended many times and can be difficult to follow. Much regulation occurs under delegated legislation. This includes regulations, principles, guidelines and general conditions which an organisation receiving funding must comply with. Because all this regulation is not in one place it is difficult to find. Some aged care services and initiatives are not regulated by Commonwealth legislation at all. These include Aged Care Assessment Teams (Assessment Teams), advocacy services and newer initiatives such as multi-purpose centres and services. They are regulated by administrative guidelines and funding agreements.

How individuals support older people

2.11 Partners, children, other relatives, friends and neighbours provide the majority of care for older people in the community. A 1993 survey found that informal care networks of family and friends provide necessary help with everyday living for at least three quarters of the older population surveyed.³⁸ Most care is provided by people who live in the same house as the older person who needs care. Most carers are older themselves. Women, as wives and daughters, provide much of this care. As progressively more women enter the workforce some commentators suggest there will be fewer women available or willing to take on caring responsibilities at home. Others argue that women may actually leave employment to provide care to their family and that they are most likely to do this where there are few other community supports to share this load.³⁹

How the community supports older people

2.12 Community organisations, which include religious and other charitable organisations, also give substantial support to older people. They raise funds and manage and operate aged care services. They run schemes to support individuals in the community: for example, community volunteers provide support to older people by visiting them in nursing homes and hostels and their homes. They provide information and act as lobbyists and advocates for older people. Often community organisations play a developmental role by setting up new and innovative services. Private sector organisations also make a significant investment in providing aged care services.

How local governments support older people

2.13 Local governments contribute to providing aged care services. Local government councils may give the land on which new aged residential care services are built. Many also take responsibility for building new residential services and getting them up and running. Some local government councils directly manage aged care services, including Home and Community Care Services (HACC). They may take part in the Commonwealth's planning processes. They also grant planning and other development approvals for residential services.

How State and Territory governments support older people

2.14 State and Territory governments also fund services for older people. They may provide capital and recurrent funding for State or Territory run residential care services. They may fund various aspects of health care for older people, such as rehabilitation services, assessment services for people with psychiatric illnesses, palliative care services for people who are dying, dental and eye care services. They fund, jointly with the Commonwealth, the HACC program and multi-functional services. They take part in the Commonwealth's planning processes. They provide resources to, and co-ordinate the operation of, Assessment Teams. These resources include accommodation, equipment and staff costs. Some States and Territories regulate Commonwealth funded nursing homes and hostels and a range of other aged care facilities such as retirement villages.

How the Commonwealth supports older people

Commonwealth funds individuals and organisations

2.15 In 1993-1994 the Commonwealth spent over \$2.6 billion on its Aged Care program. The Commonwealth provides funding to

- organisations to provide aged care services
- organisations set up to give support to aged care services (for example, to assess the care needs of older people, to provide advocacy services and to organise volunteers to visit nursing home residents)
- people who care for older people at home.

The kinds of funding it provides include

- to carers directly - the Domiciliary Nursing Care Benefit
- to organisations
 - capital funding to buy land and buildings, to build, demolish, rebuild or upgrade premises and to purchase equipment or for a combination of these purposes
 - ongoing (recurrent) funding to help meet the costs of running the service
 - one off grants (for example, to help services remain viable, to undertake needs assessment and to develop innovative services).

As well as services provided by the program the Commonwealth provides other measures which may benefit older people, such as Medicare, age and carers' pensions, housing, tax and other concessions. These services are outside the scope of the Commission's reference.

Funding the carers of older people

2.16 **The Domiciliary Nursing Care Benefit (DNCB).** DNCB is a benefit paid to people who care for frail older people who remain in the community rather than enter institutional care.⁴⁰ It is financial recognition of

the contribution made by carers, although it is not intended to reimburse carers for the full costs of the care they provide.⁴¹ It is now set at \$54.20 a fortnight and it is indexed annually (from January 1994).⁴² The benefit is not means tested and is tax free.

2.17 *Who gets it?* The Commonwealth pays the benefit to a carer approved by the Department as eligible to receive it. For the benefit to be paid

- the person being cared for must be 16 years or older and require the same type of nursing care as is provided in a nursing home (this must be certified by a medical practitioner)
- the carer and the person being cared for must live in the same home or very close to each other (for example, in a granny flat)
- the carer must be providing care on a full-time basis (although the carer may take 42 days off a year and short periods off during the day while another person provides the care)
- the nursing care provided must be of an adequate standard (this must be certified by a registered nurse).

Only one carer is paid at any one time. A carer can be approved to care for no more than two people. The benefit is not paid where the care is provided in an institution where nursing care is provided and where this care is funded solely or partly by the Commonwealth or a State or Territory, for example, a hospital or residential aged care facility. A carer can get DNCB while the person cared for is also getting community aged care services, such as Care Packages or HACC services.

Funding organisations to provide aged care

2.18 *Who is funded?* Commonwealth funding to provide aged care services is granted to

- State, Territory and local governments
- non-profit organisations including community, religious and charitable organisations
- private for profit organisations.⁴³

2.19 *What is funded?* Most Commonwealth funding goes to organisations that provide four main service models for aged care

- nursing homes (see para 2.21-32)
- hostels (see para 2.33-38)
- Care Packages (see para 2.39-44)
- home and community care (HACC) (see para 2.45).⁴⁴

The Commonwealth helps mainstream services to cater for special needs groups by providing additional funding and support services. At the same time the program has developed or is testing a number of different ways of providing aged care to help groups whose needs cannot be adequately met by mainstream models. Multi-functional services are an example of these.⁴⁵

2.20 *Who is eligible for residential services and Care Packages?* A person who wants to enter a nursing home or hostel or receive a Care Package at home must first be assessed by an Assessment Team.⁴⁶ Assessment Teams assess a person's care needs to see if he or she meets eligibility criteria for residential care or Care Packages. They may also help people to get HACC services if appropriate. Assessment Teams approve a person as eligible to receive services. An approval is necessary for a person to be accepted by a Commonwealth funded service provider to receive care, although it is not a guarantee of a place. An

approval is also necessary for a nursing home, hostel or organisation providing Care Packages to receive Commonwealth funding in respect of the person. Assessment Teams usually include a doctor, nurse, occupational therapist and social worker. They are generally based at hospitals or geriatric centres and sometimes in community health centres or other separate facilities. They also provide information, advice and assistance to older people and their carers. The Commonwealth provides funding for Assessment Teams to State and Territory health authorities, which manage them.

Nursing home care

What is nursing home care?

2.21 Nursing home care provides people with accommodation and other support services, such as a bed, cleaning and laundry services, meals and help to perform daily tasks like eating, bathing and toileting, dressing and moving around. Nursing home care also includes the provision of continuous nursing care and recreational and therapy services.

Who gets it?

2.22 Older people⁴⁷ are eligible for nursing home care if they have been assessed by an Assessment Team as needing

- accommodation in a place where nursing home care is provided
- continuous nursing care (which a doctor must certify).

Nursing home care may be provided to people on a permanent basis or short term basis (respite services). Respite services are provided using a vacant place (called benefit respite services), or alternatively by using the place of a permanent resident on short term leave (called leave respite services). A person using benefit respite services is entitled to not more than 63 days care in the same nursing home each financial year. There is no limit on how many days of care a person using leave respite services may take.

Where can you get it?

2.23 Nursing home care can be provided in a nursing home, in a residence which provides hostel care and nursing home care or in a place where other services are also provided (multi-functional facilities). Some State government nursing home places are located in hospitals.

Funding non-government nursing homes

2.24 ***What are non-government nursing homes?*** Most Commonwealth funding goes to non-government nursing homes. They are run by profit making or voluntary non-profit organisations (including religious or charitable organisations and local government authorities). A small proportion of non-government nursing homes can charge residents a higher fee in return for a higher quality of accommodation and services (these are called nursing homes with 'exempt status').

2.25 ***What sort of funding do non-government nursing homes receive?*** All non-government nursing homes receive ongoing (or recurrent) funding. Some services may also be eligible for additional recurrent funding to help

- ensure there is at least one registered nurse on duty 24 hours a day
- services remain viable where they are located in remote areas or cater for special needs
- provide special feeding for residents
- provide oxygen treatment for residents.

Non-government nursing homes which are non-profit may receive capital funding. Some, usually private for profit nursing homes, may be eligible for capital assistance to help pay for work to build or rebuild or upgrade a nursing home. Nursing homes which want exempt status must agree to give up this capital assistance if approved for exempt status.

2.26 How much recurrent funding do non-government nursing homes receive? The amount a nursing home receives is calculated on a per resident per day basis. An average nursing home with 40 places receives recurrent funding of around \$1.09 million a year.⁴⁸ There are four components of recurrent funding.

- **Standard Aggregated Module (SAM).** This is a flat rate and is uniform across Australia.⁴⁹ It helps meet the costs of running a service, including food, electricity and the salaries of cooks and domestic staff. SAM is indexed annually.
- **Care Aggregated Module (CAM).** This funds the salaries and wages of staff who provide nursing and personal care. The rate varies between States and Territories because it takes into account the various industrial award rates. CAM recognises the different care needs of residents by paying higher payments for greater assessed care needs. Care needs are assessed by the service when residents enter the nursing home. Residents are classified into one of five categories, according to the Resident Classification Instrument (RCI). A service receives funding at a minimum of category 3 on the RCI scale for respite residents. CAM is adjusted to reflect movements in awards covering nursing and personal care staff in each State and Territory.
- **Other Cost Reimbursed Expenditure module (OCRE)** . The rate varies between individual nursing homes. It covers long service leave and superannuation for nursing and personal care staff and payroll tax and workers compensation costs for all staff. OCRE is adjusted to reflect movements in industrial awards for nursing and personal care staff.
- **Loadings.** These allow payments to be adjusted if a service has been paid more than it is entitled to or has not been paid enough.

A nursing home with exempt status receives recurrent funding on the same basis as set out above, but at a lower rate than other non-government nursing homes. The rate paid takes into account the extra amount paid by residents for additional services.

2.27 How much capital funding do non-profit non-government nursing homes receive? An organisation may receive around \$1 million to build a new nursing home with 40 places.⁵⁰ The Commonwealth provides \$2 for every \$1 that the service contributes for building and land costs, up to a maximum amount per approved aged care place (\$26 200 per place for building and \$7 450 per place for land). Funding for equipment is included as part of these amounts. Organisations undertaking capital works in rural or remote areas may also receive higher amounts towards building costs. A service receives maximum higher amounts where it provides exclusively or almost exclusively for people who are financially disadvantaged, who live in rural or remote areas or who are of non-English speaking backgrounds or from Aboriginal and Torres Strait Islander communities (\$51 450 per place for building and \$7 450 per place for land). For upgrading works the Commonwealth pays \$1 for every \$2 the service contributes, to a maximum of \$8 750 per place.⁵¹ Generally speaking, upgrading grants are made to upgrade premises where they fail to meet health, safety or fire regulations. Capital grant rates are indexed annually.⁵²

2.28 How much capital assistance do non-government nursing homes receive? The Commonwealth provides 'capital assistance' to upgrade nursing homes or to build or rebuild facilities. This funding is targeted at profit making non-government organisations. It is designed to help organisations pay their interest on loans. It is paid on a recurrent basis, in monthly instalments over a 10 year period. It is not indexed. Generally speaking, upgrading grants are made for substantial upgrading of nursing homes to improve the quality of care offered to residents. The upgrading can include the purchase and installing of furniture and fixtures. Building and rebuilding grants are made to build or rebuild premises to enable care standards to be improved, or where a new home is in an area with a low ratio of places compared to older people or it will cater for special needs groups. Roughly speaking, the amount of capital assistance paid to upgrade or to build or rebuild a nursing home with 50 places would be around \$600 000.

Funding State and Territory government nursing homes

2.29 Arrangements differ. The Commonwealth funds State and Territory government nursing homes, run by the State or Territory or by profit or non-profit organisations for the State or Territory. The Commonwealth has come to an agreement with the States and Territories about how much recurrent funding it will contribute to these homes. From 1985 to 1993 the amount the Commonwealth paid was frozen. Most States and Territories have agreed in principle to new funding arrangements which are at varying stages of implementation. Nursing homes in States that have adopted the new funding arrangements are called 'adjusted fee government nursing homes'. They are treated for nearly all purposes like non-government nursing homes but they receive a slightly different rate of recurrent funding. They are not eligible for capital funding or for approval as nursing homes with exempt status.

2.30 How much do adjusted fee government nursing homes receive? Adjusted fee government nursing homes get a modified version of the funding now paid to non-government nursing homes. They receive

- 77.5% of SAM
- full CAM for residents who have been assessed and classified
- OCRE.

Their rates for respite residents are similar to other non-government homes.⁵³ They are eligible for additional recurrent funding for residents needing oxygen and special feeding.

2.31 How much do other State and Territory government nursing homes receive? The Commonwealth provides other State or Territory government nursing homes with recurrent funding only. The Commonwealth pays a flat rate per resident per day which varies between the States and Territories.⁵⁴ They are also eligible for payments for residents who require more intensive care than other residents.⁵⁵

What does a nursing home resident pay?

2.32 The Commonwealth regulates the amount a nursing home resident pays, except for residents of State and Territory government nursing homes. Permanent residents pay a weekly fee and certain extra charges. Respite residents occupying the place of a permanent person on leave pay a weekly fee. Respite residents occupying a place that has been vacated by a permanent resident who has left the home or who has died pay the weekly fee and a respite care booking fee. These amounts are calculated as follows.

- **The weekly fee.** Residents, other than residents living in nursing homes with exempt status, pay a set amount of not more than 87.5% of the sum of the maximum single rate of aged pension plus rent assistance. Currently this is \$171.15 a week.⁵⁶ Residents of nursing homes with exempt status can elect to have extra services and a higher grade of accommodation. These residents pay a higher weekly fee.
- **Extra charges.** A resident can only be asked to pay extra charges for services additional to those which the Commonwealth requires all nursing homes to provide. The resident must have requested the additional services. The service cannot make residents pay for additional services which they do not want by making it a condition of entering or staying in the nursing home that they pay for these extra services. Extra charges may be made for things like telephone calls or clothing.
- **Booking fees for respite residents.** The booking fee may be no more than 25% of the total fees for the stay, to a maximum of one week's fee. This fee is deducted from the weekly fee when the resident enters the nursing home.

Hostel care

What is hostel care?

2.33 Hostel care provides people with accommodation and associated support services, including a bedroom and bathroom, food, laundry (personal and institutional), heating, common areas with a TV and lounge, assistance with social activities and emergency on call assistance. Most hostel residents also need 'personal care services'. These include help with washing, dressing and eating, occasional nursing care when required and rehabilitation services.

Who gets it?

2.34 Older people⁵⁷ are eligible for hostel care if they have been assessed by an Assessment Team as needing

- accommodation and associated support services or
- accommodation and associated support services and personal care services.

Hostel care may be provided to people on a permanent basis or short term basis (respite services). Respite services are provided using places permanently set aside for respite services. A respite resident is entitled to no more than 63 days care in the same residence each financial year. A person who is financially disadvantaged and only wants supported accommodation does not have to be assessed by an Assessment Team to get respite services.

Where can you get it?

2.35 Hostel care may be provided in a residence which provides hostel care only, in a residence which provides hostel care and nursing home care or in a place where other services are also provided (multi-functional facilities).

What funding do organisations providing hostel care receive?

2.36 **Recurrent funding.** Generally speaking, the amount of funding paid to a service depends on residents' financial status and assessed level of care needs. A service does not receive funding for permanent residents who enter a hostel only for accommodation and associated support services and who are not financially disadvantaged. An average hostel with 40 places would currently receive recurrent funding of around \$296 000 a year.⁵⁸ A hostel must provide a certain percentage of places to people who are financially disadvantaged.⁵⁹ There are different rates which are indexed annually.

- **Residents requiring accommodation and associated support services only and who are classed as financially disadvantaged.** There are two rates depending on when the resident entered the hostel.⁶⁰
- **Residents requiring personal care as well as accommodation services.** There are nine rates depending on the person's care needs, financial status and when the person first entered the hostel. Residents are assessed by the service provider after entering the residence. They are classified into one of three categories according to the Personal Care Assessment Instrument (PCAI) (low, intermediate and high).⁶¹
- **Respite residents.** A service provider receives a higher amount for respite residents than for permanent residents. Service providers receive funding for all respite care residents requiring accommodation and associated support services only, whether or not the client is financially disadvantaged.⁶² Hostels may in practice provide respite services using the place of a person on leave. They receive no extra funding to do so.

2.37 **Capital funding.** Only non-profit organisations are eligible for capital funding. An organisation may receive around \$1 million to build a new hostel with 40 places.⁶³ The amount of capital funding a service provider receives largely depends on the proportion of 'financially disadvantaged persons' for whom the

service is required to provide.⁶⁴ A service provider gets a higher rate of funding depending on the number of places approved as reserved for people who are financially disadvantaged. Funding is provided for building and purchasing premises, land costs and associated works. Extra funding may be paid to cover the extra costs of building in particular locations, such as rural and remote areas. The Department calculates the amount of capital funding using formulas or the actual capital costs of land and buildings, whichever is less. The formula for funding for capital and land costs is based on the number of financially disadvantaged persons, respite, general and staff places which have been approved for the hostel. Funding for equipment is included as part of these amounts. For upgrading works the Commonwealth pays \$2 to every \$1 the service contributes, up to a maximum amount per place. Capital grants are indexed annually.⁶⁵

What does a hostel resident pay?

2.38 The Commonwealth regulates the amount a resident in a Commonwealth funded hostel pays. Permanent residents pay a weekly fee, a partly refundable entry contribution, an administrative fee and certain extra charges. Respite residents pay the weekly fee and a respite care booking fee. These amounts are calculated as follows.

- ***Weekly fee.*** The amount a resident pays depends on the person's income. For each income level there is a maximum fee. A resident who earns income up to or equal to the sum of the full pension, rent assistance and pharmaceutical allowance may be charged up to 85% of the sum of the full pension plus rent assistance.
- ***Entry contribution.*** The service provider may require an older person to pay an entry contribution as a condition of entering a hostel. The service provider determines the amount in consultation with a resident and this amount is set out in a formal agreement between the hostel and resident. However, a person must be left with assets of at least two and a half times the annual aged pension (currently this amount is \$20 500) after paying the contribution.⁶⁶ If the resident can show that he or she would be left with assets of less than that amount a service provider must reduce the entry contribution accordingly or waive the contribution. The service provider may keep some of the entry contribution when a resident leaves the hostel. The amount it keeps depends on the size of the contribution and the length of time the resident has lived in the hostel.
- ***Administrative fee.*** The administrative fee compensates a service for additional administrative expenses where a resident does not enter a residence as agreed or leaves within three months of entry. It is calculated as a proportion of the maximum amount of an entry contribution which the service provider may keep for a resident in a hostel for a six month period.
- ***Extra charges.*** The service provider can charge extra only for services other than those it must provide as a condition of funding. The service provider may charge a resident only if the service is provided by a third party, at the request of the resident, and is solely for that resident. For example, a service provider could charge a resident extra for installing a private phone.
- ***Booking fees for respite services.*** The service may charge a respite resident a booking fee. The amount may be no more than 25% of the total fees for the stay, to a maximum of one week's fee. This fee is deducted from the weekly fee once the respite resident enters the hostel.

Care Packages

What are Care Packages?

2.39 Care Packages are a fairly recent initiative.⁶⁷ An organisation receives funding to provide a package of care services to clients in their homes. The funded organisation may provide services directly or arrange for other agencies to provide them. Services may include help for an older person to dress, eat, wash, do laundry or maintain their health. An older person may also receive help with home maintenance and gardening or be provided with temporary respite care at home. Care Packages are intended to be an alternative to residential care, particularly where residential care is not viable or appropriate (for example, in rural or remote communities).

Who gets Care Packages?

2.40 Older people can get Care Packages if they have been assessed by an Assessment Team, in co-operation with the service provider, as eligible for the subsidy and suitable for the service. Care Packages are designed to offer people an alternative to hostel care. Therefore the person will have at least the same level of care needs as a person who would be eligible for 'personal care services' in a hostel. They must

- have complex care needs
- prefer to remain at home with appropriate support
- need help with activities of daily living.

Care Packages may be provided on a permanent or shorter term basis.

Where can you get them?

2.41 Care Packages are provided to a person in the home. A person's home may include a place he or she owns or rents, a retirement village or a boarding house. Services cannot be provided in places like nursing homes, hostels, hospitals or other supported accommodation facilities receiving government funding to provide similar services.

What funding do services providing Care Packages receive?

2.42 ***Recurrent funding.*** An organisation receives a flat amount per client per day. This is now set at \$25.30 per client per day.⁶⁸ The amount is indexed annually. The average number of Care Packages an organisation is approved to provide is 15.⁶⁹ This means the average organisation currently receives \$138 517 per year. This money is not tied to a particular client. The organisation pools funds with client contributions and then uses the money to meet the costs of individual packages. An organisation must provide a percentage of Care Packages to people who are financially disadvantaged.⁷⁰

2.43 ***Establishment grants.*** Some new services may receive an establishment grant before they start to provide services, up to a maximum of \$50 000. Grants are targeted at organisations which may have difficulties establishing a viable service because they have no existing service base to use, because they serve remote or isolated communities or because they provide care to a small number of people. The organisation may use the grant to buy things like a car or communication equipment or to help set up an office.

What does a person receiving a Care Package pay?

2.44 The Commonwealth regulates this amount. It has two components.

- ***Weekly fee.*** The amount varies depending on the client's income. The amount is worked out with reference to the aged pension, with a ceiling on how much the client can be asked to pay. A person whose income is no more than the maximum basic single aged pension cannot be required to pay more than 17.5% of that amount.
- ***Extra charges.*** The organisation can charge the client extra for the costs of modifying the home and the costs of arranging or providing other services which are not part of the Care Package.

Home and Community Care (HACC)

2.45 The HACC program is jointly funded by Commonwealth, State and Territory governments. State and Territory governments are responsible for the day to day administration of HACC. Funding is provided for care services to help frail older people and younger people with a disability to remain in their homes and to give support to their carers. Services are provided by State and Territory governments, community organisations, local government and religious and charitable organisations. They include home help, community nursing, home maintenance and modification, transport services, meals on wheels, allied health

services and community respite services. The HACC program also funds information, education and training for both service providers and clients. The amount older people pay for HACC services is set individually by each service provider. A draft national fees policy has been developed by the Commonwealth and State and Territory governments to guide service providers on how much to charge and to ensure clients are not refused care because they cannot afford it. This report does not deal with HACC.

Aged care delivered in flexible or innovative ways

Introduction

2.46 The Department considers that services should be more flexible. It recognises that the needs of some groups in the community may be better met by aged care delivered in new ways. These groups include people living in rural or remote areas and Aboriginal and Torres Strait Islander communities. While most Commonwealth funding goes towards mainstream services the program is also testing new ways of providing aged care services designed to be more responsive to community needs. They may become mainstream models in the future.

Multi-functional models

2.47 The Department is developing new ways to deliver aged care services from the same site as other community and health services funded by the Commonwealth or State or Territory governments. The stated aim is to improve access to services by people in communities too small to support services which have only one function. There are two multi-functional models.

- ***Multi-purpose centres.*** Money for multi-purpose centres is allocated from existing standard model funding arrangements.⁷¹ They serve as a base for a wide range of services, usually from a single centre, such as
 - acute hospital care
 - residential aged care
 - child care
 - services for younger people with a disability
 - other community services such as counselling, drug and alcohol services- professional health services such as physiotherapy, podiatry and occupational therapy.
- ***Multi-purpose services.*** These are established by pooling State or Territory and Commonwealth funds. They provide a range of health and aged care services such as
 - general hospital care
 - primary health care
 - paramedical services
 - residential aged care
 - support services for older people which allow them to continue living in the community.

Linking care with the individual not the place

2.48 The program is funding organisations to test new options for aged care service provision. It funds some residential care providers to provide nursing home type care to people in their own homes.⁷² A number of other service providers are being funded to provide both nursing home care and hostel care at one site so that

people can stay in one place even if their needs change.⁷³ Earlier pilot projects which tested providing hostel type care to people in their own homes led to the introduction of the Care Packages program.

Addressing the special needs of older people

2.49 The Department has identified a number of groups of older people who may have needs that cannot be readily met within the mainstream funding framework. They may face barriers to getting services. The groups the Department has identified are people of non-English speaking backgrounds, people from Aboriginal and Torres Strait Islander communities, people who live in rural or remote areas and people who are financially or socially disadvantaged. These identified groups overlap with people most likely to be catered for by flexible or innovative aged care services. Other groups of older people who may have special needs include people with dementia.⁷⁴ The Department provides funding to mainstream services and to organisations supporting the provision of aged care services to help meet these needs within mainstream models. Some of the projects funded to meet special needs are described below.

- ***Support for Aboriginal and Torres Strait Islander services.*** The Commonwealth gives additional, case by case, supplementary funding to Aboriginal and Torres Strait Islander specific hostels to help them remain viable.⁷⁵ The Commonwealth has recently developed a long term strategy to improve the appropriateness, viability, diversity and self-sufficiency of aged care services for Aboriginal and Torres Strait Islander communities. It is providing funding for
 - piloting flexible service models and to review existing and planned services
 - community education and information
 - needs assessment and training of service providers
 - project development and start up grants for new services
 - the continuation of case by case supplementation of existing residential facilities experiencing financial problems.

In consultation with communities, the Department will review existing and planned residential services and support them to restructure and become more appropriate and flexible.⁷⁶

- ***National Action Plan for Dementia Care.*** The program has developed a five year *National Action Plan for Dementia Care*, launched in 1992-93. The plan aims to increase the capacity of all aged care services to respond to the needs of people with dementia and their carers, within the mainstream model service framework. It targets seven key areas
 - diagnosis and assessment
 - services for people with dementia
 - services for carers of people with dementia
 - quality services
 - research and evaluation
 - community awareness
 - policy and planning.

It promotes research, innovative care practices and the increased availability of counselling for families and carers.

- ***Assistance with Care and Housing for the Aged Program.***⁷⁷ The Commonwealth funds organisations to employ support workers to help older people who are financially disadvantaged and living in rented accommodation or who are homeless to get care services and to help maintain them in secure and affordable housing. Support workers may provide outreach services to help these people get the services they need or provide support services to them in their homes.
- ***Residential respite care for older people and their carers with special needs.*** The Department has established a pilot program which funds seven Assessment Teams and two community groups to help buy residential respite services for people in special needs groups and to help residential services pay the cost of keeping respite places available.⁷⁸
- ***Special services funding.*** One part of special services funding is 'aged care program support' funding. The Commonwealth provides a range of special, submission based grants to services which cater for special needs groups.⁷⁹ Grants are used for short term projects to enable services for special needs groups to be developed and operate successfully in the long term. They can be used to provide training to the management and staff of services and to pilot and evaluate the delivery of innovative services, such as
 - 'clustering' which groups together residents of similar ethnicity in mainstream residential facilities
 - the placement of ethnic liaison officers in Assessment Teams, to make assessment for people of non-English speaking backgrounds more culturally appropriate
 - best practice demonstration grants to promote high quality services for people of non-English speaking backgrounds.

Special services funding is also used for day therapy centres to treat and rehabilitate hostel residents and older people living in the community.

Promoting the rights of older people

2.50 The program funds services to promote the rights of people living in residential care, people receiving Care Packages and their carers. The strategies are discussed in more detail in chapter 10. Services funded under this part of the program include the following.

- ***Independent advocacy services.*** These services are run by community-based organisations and provide a free and confidential service to people receiving Commonwealth funded aged care services, potential clients and their representatives to help them to understand and exercise their rights.
- ***Community visitors schemes.*** Community-based organisations recruit, train and provide support for volunteers who visit residents of nursing homes who are isolated because they have no family or friends, because there are language or cultural barriers or because of their medical condition.

The user rights program also funds one-off projects, including projects to target special needs groups.

3. Principles for new legislation

Introduction

3.1 This chapter discusses the principles that, in the Commission's view, should be expressed in new aged care legislation. These principles inform the recommendations in this Report.

- It identifies the main goal of the Aged Care Program (the program) and describes how it seeks to achieve this goal (para 3.2).
- It outlines the principles that should inform the development of programs and policies (para 3.3-7).
- It outlines the principles that should inform the administration of the program (para 3.8-10).
- It makes a recommendation that the new legislation should contain an objects clause that includes objects that give expression to these principles (para 3.11).
- It discusses the complex nature of the existing legislation and makes a recommendation about the new legislation (para 3.12-13).

Program goals

3.2 The main goal of the program is to enable older people who need support to maintain their dignity and quality of life and to remain living as independently as possible. The program does this by providing funding to help organisations provide aged care services and support services either in the community or in places established specially for the purpose such as nursing homes and hostels.⁸⁰ Care needs the program funds include

- nursing care
- paramedical care such as physiotherapy and occupational therapy
- food and accommodation
- social support and
- help with the activities of daily living.

The program also recognises and supports the carers of older people by providing direct assistance and support services to them. It ensures that services meet a specified standard of quality.

Principles that should inform the development of programs and policies

Introduction

3.3 During its work on reviewing the Aged Care program (the program) the Commission has identified principles which it considers should govern the operation of the program and its policies. Generally speaking, the program already is aware of these principles and has some measures which are aimed at accommodating them. The Commission's goal is to ensure that these principles are given a more central role in the way the program is run and policies are developed. It has used these principles to analyse the program and to make recommendations about what should be in the new legislation.

Focus should be on meeting individual care needs

3.4 In the Commission's view the focus of the programs and policies of the Department of Human Services and Health (the Department) should be on meeting the individual care needs of older people. The

Commission's consultation process indicates that the community also places very strong importance on this focus.⁸¹ The program aims to meet the individual care needs of older people by, among other things,

- planning where services should go
- funding people to assess people for services
- consulting older people and their representatives about the kinds of services they want
- funding different kinds of services to meet people's needs.

A program which has meeting individual needs as a central principle should give a high priority to developing and setting up innovative and flexible ways of delivering aged care services. It should also have a funding structure which directs funding on the basis of what kind of care the older person needs rather than where the care is to be given. The Commission's recommendations are directed at ensuring that the new legislation supports, and enables the program to pursue, these outcomes.

Promoting access and equity and social justice

3.5 The program should ensure that aged care services are delivered to older people in a way that is consistent with the Commonwealth's access and equity and social justice strategies. The Commission's consultations indicate that there is strong community concern about this issue and a wealth of ideas about how access and social justice in service delivery can be improved for people of non-English speaking backgrounds and people from Aboriginal and Torres Strait Islander communities.⁸² The program pursues access and equity and social justice in service delivery by, among other things,

- identifying certain groups in the community whose use of services may be limited unless particular attention is paid to them (special needs groups)
- providing extra funding to ensure that services are available to people who belong to special needs groups
- taking measures to ensure that people who are financially disadvantaged are not prevented from using services.

A program which has access and equity and social justice principles as a central principle of its service delivery should regularly evaluate and amend its programs and policies to ensure that services are being delivered in an equitable and accessible and socially just way. The Commission makes recommendations directed at ensuring that the new legislation supports, and enables the program to achieve, access, equity and social justice in aged care service delivery.

Promoting consumer rights

3.6 In the Commission's view the program must promote and protect the rights of the consumers of the services it funds. The Commission's consultation shows widespread support for the goals of user rights strategies. The program promotes the individual rights of older people using residential care or receiving Care Packages using strategies such as

- charters of rights and responsibilities
- formal agreements between clients and the service
- support services that help consumers and their representatives to enforce their rights, including
 - complaints services
 - advocacy services

- community visitors schemes
- consumer information programs.

A program which has user rights as a central focus should have effective strategies which ensure that older people have 'privacy', are treated with 'dignity and respect', have 'choice', a 'safe, secure and homelike environment' and 'quality care'. The Commission makes recommendations about the new legislation which support, and enable the program to achieve, these outcomes for older people.

Promoting quality of life and care

3.7 In the Commission's view the program must promote quality of life and care for older people. Consultation emphasises the importance of quality and, generally speaking, shows community support for the way the program goes about achieving it.⁸³ The program is committed to ensuring that service providers it funds meet certain standards of care. The main way it does this is by monitoring services to ensure that pre-determined standards of care are met. The Commission makes recommendations about the new legislation which support, and enable the program to achieve, quality care outcomes for older people.

Principles that should inform the administration of the program

Administration should be transparent

3.8 In the Commission's view the decisions the Department makes when it is administering the program should be transparent. That is, people should be able to find out what decisions the Department makes, the Department should make decisions on the basis of clear and known criteria and it should be able to tell people affected the reasons for its decisions. Consultation and submissions showed widespread support for greater transparency. However, in the existing program it is not always clear from the legislation how one might go about getting an aged care service or funding to provide one. Legislation does not necessarily contain the matters that will be considered in deciding whether or not a person will get a service or funding to provide one. Some aged care services and initiatives are not regulated by legislation at all. Decision making which is transparent is more likely to be better than decision making that is not. People affected by decisions are more likely to understand and accept decisions made on the basis of clear criteria and are less likely to ask for the decision to be reviewed. Transparent decision making makes the program more accountable by opening decision making processes to scrutiny. In later chapters of this Report the Commission makes specific recommendations designed to ensure that decision making is more transparent.⁸⁴

There should be consistency in the regulation of service types

3.9 The Commission's view is that there should be consistency in the way the legislation regulates service types unless there are good reasons why not. Nursing homes and hostels and community care have much in common. However, the Commonwealth often regulates similar matters in relation to these different care models differently even when there is no reason to do so. Differences in regulation is a barrier to the development of more flexible service models. It makes administration of the program more difficult for Departmental officers. It makes running more than one kind of aged care service unnecessarily complicated for service providers who have to comply with different sets of rules for each kind of service and it is a barrier to efficiency. The Commission makes recommendations about the new legislation aimed at ensuring (where appropriate) consistency in regulation in chapter 14 of this Report.

Promoting flexible service provision

3.10 In the Commission's view the program cannot meet individual care needs unless it is administered in a way that promotes flexible service delivery. Consultation and submissions show that lack of flexibility is considered to be a significant problem. The existing legislation appears to inhibit flexible administration. Because nursing home care is defined as care that is delivered in a nursing home, for example, it is very difficult to use an existing nursing home bed for an alternative form of care even where regional circumstances and service provider and consumer preferences would support the conversion. The Commission acknowledges that changing the legislation will not by itself change the way the program is

administered or the way that services are delivered by service providers. It is, however, a necessary precondition to change. In the Commission's view the new legislation should be designed in a way that promotes flexible service delivery. It should be flexible enough to accommodate future changes in the way aged care services may be provided. It should enable funding to be provided for different kinds of services in different kinds of environments. It should not, for example, require particular kinds of care to be delivered only in a facility designated specifically for that purpose. It should not frustrate the development of service initiatives that are funded using money from other program areas of the Department. It should provide a framework within which change can be accommodated consistently with the principles articulated in this chapter. The Commission makes recommendations directed to that end in chapter 14 of this Report.

The Commission's recommendation

3.11 In the Commission's view the goals of the program should be set out in an objects clause in the new legislation. An objects clause sets out the object and purpose of the Act and its underlying policy principles. It is usually found at the beginning of an Act.⁸⁵ The main advantage of an objects clause is that it makes it clear on the face of the Act what the goals of the program are. It ensures that decisions made under the Act are consistent with the goals of the program. In consultation with the Department the Commission has developed the objects that should be in the new legislation. They are consistent with the United Nations Principles for Older People. **The Commission recommends that the new legislation should include an objects clause that contains the following objects to be pursued within the resources available:**

- **to enable older people who need support to maintain their dignity and quality of life and to remain living as independently as possible by providing funding to help organisations provide aged care services and support services either in the community or in places established specially for the purpose⁸⁶**
- **to recognise and support the carers of older people by providing direct financial assistance and support services to them**
- **to develop and administer programs which are innovative and flexible so that they best meet the identified needs of older people and their carers and maximise their choices**
- **to ensure that the program provides services and support which are available on an equitable basis and appropriate to all members of the community irrespective of race or ethnic background, religion, culture or language, disability, geographic location, socio-economic status, gender and sexual orientation**
- **to ensure consumers enjoy the same rights as all other Australians**
- **to ensure that services are provided where they are needed, are targeted to people who need them most, and are affordable**
- **to ensure services meet a specified level of quality**
- **to ensure the program is administered so that there is co-ordination and continuity of care across health and community services for older people**
- **to develop and administer programs in a cost effective way**
- **to develop policies, administer programs and evaluate them in the light of appropriate consultation**
- **to ensure that older people and their carers, and service providers, are informed about the care and other support services available to them and their rights**
- **to develop and administer programs consistently with Australia's human rights obligations to older people**

- to ensure that services are accountable to the Commonwealth for the funding they receive.

Legislation should be straightforward and easy to understand

Current legislation is complicated

3.12 Most of the program is administered under two Acts, a large amount of delegated legislation and funding agreements between the Minister and service providers. The legislation is complex, has been amended many times and in many cases is difficult to follow. Much regulation occurs under delegated legislation. This includes regulations, principles, guidelines and general conditions with which an organisation receiving funding must comply. Because all this regulation is not in one place it is difficult to find.

The Commission's recommendation

3.13 In the Commission's view the program should be administered under one Act. It is difficult to maintain the consistency recommended by the Commission between nursing homes and hostels, for example, if they are administered under different pieces of legislation. The Commission recognises that the legislation must perform different functions for different groups of people. The structure should be logical so that consumers and their representatives, service providers and program administrators are able to find what they want. It should be written in plain language so that it can be relatively easily understood. To meet the needs of consumers for information the legislation should include an overview of the program that describes in simple terms the objectives that the legislation and the program are trying to achieve, the main service types for which funding is available and the main kinds of funding provided by the Commonwealth.⁸⁷ **The Commission recommends that there should be a single aged care Act that has a logical structure and is written in plain language. It should include an overview that describes the program.**

PART II - ACCESS TO SERVICES

4. Consultation and planning

Introduction

4.1 This chapter looks at how the Department of Human Services and Health (the Department) goes about getting community views about the services it funds to ensure they meet older people's needs. The chapter also discusses the Department's needs based planning process.

- It describes the Aged Care program's (the program) consultation and advisory strategies, sets out what submissions say about them and makes a recommendation that the new legislation should reflect the importance of consultation by including consultation as one of the objects of the legislation (para 4.2-8).
- It outlines the current legislative provisions and administrative practices governing the planning process, discusses what submissions say about it, makes recommendations about developing more appropriate indicators of need, how the new legislation should provide for planning and discusses whether there should be merits review of planning decisions (para 4.9-22).

Getting community views about aged care

Current consultation and advisory strategies

4.2 The Commonwealth uses a range of strategies to give members of the community an opportunity to say what they think about the Commonwealth's aged care program.

- **Ongoing consultation.** The program has a policy of consulting with older people and their representatives, peak bodies in aged care and aged care service providers when it conducts reviews or special evaluations.
- **Advisory bodies.** The Commonwealth has recently established Older Australians Advisory Councils in each State and Territory. There is also a national Council.⁸⁸ The Councils' role is to advise the Minister about Commonwealth funded services and about the roles that older Australians play in family and community life, including their roles as carers and as active citizens. They are advisory, not consultative in nature, and members do not formally represent particular groups. The program has also established
 - a 'Best Practice Committee' to develop lists of best practice in the provision of aged care services to ethnic communities, to establish demonstration projects and to market and promote these initiatives to the aged care industry
 - an 'Ethnic Aged Grants Advisory Group' to review specific projects for people of non-English speaking backgrounds funded by Aged Care Program Support, to determine their relative success and to identify possible future directions for the projects.
- **Planning committees.** As part of the planning process, Aged Care Advisory Committees (ACACs) may invite people or organisations to attend consultations to determine the need for aged care services in a particular region.⁸⁹

What the discussion paper asks

4.3 The Commission's discussion paper asks what provision the legislation should make for consultation with older people.

What submissions say about consultation

4.4 A broader range of people should be consulted. In consultations and submissions people told the Commission that the program's consultation strategy should include consultation with a broader range of people.

- ***Older people should be consulted.*** Many submissions say that the program should seek the views of older people themselves and their carers.⁹⁰ Consultation should involve 'ordinary people',⁹¹ not just organised peak consumer bodies⁹² who can dominate debate.⁹³ One submission says that

many less advantaged Australians and groups of Australians, whilst lacking the skills to contribute, are still being talked 'about' rather than talked 'with' and their actual experience and needs may be very different from that envisaged.⁹⁴

The views of people who actually use services quite often differ from those of younger, fitter older people.⁹⁵ However, special measures may be needed to get the views of consumers, especially the frail elderly.⁹⁶ Many consumers have some degree of cognitive impairment⁹⁷ and problems with mobility and communication.⁹⁸ Submissions suggest that consultation is likely to be more effective if it uses older people's current networks, such as clubs and other groups.⁹⁹ They also suggest that the Commonwealth might hold regular discussions with elderly citizens groups,¹⁰⁰ visit facilities¹⁰¹ and conduct small focus groups.¹⁰² Women should be encouraged to participate.¹⁰³

- ***People from special needs groups should be consulted.*** People say the program should put more effort into getting the views of special needs groups¹⁰⁴ including people of non-English speaking backgrounds¹⁰⁵ people from Aboriginal and Torres Strait Islander communities¹⁰⁶ and people living in rural and remote areas.¹⁰⁷ There should be procedures to ensure regular discussions with independent organisations representing older people,¹⁰⁸ for example Aboriginal and Torres Strait Islander and non-English speaking background organisations.¹⁰⁹ These organisations can then report back to their constituents.¹¹⁰

4.5 More effective methods of consultation should be used. During consultations and in submissions people suggested ways to improve consultation with older people and their carers. In the first place consultation should be adequately funded.¹¹¹ Funding should cover the cost of interpreters for people from Aboriginal and Torres Strait Islander communities¹¹² and people of non-English speaking backgrounds.¹¹³ The matters which require community consultation should be clearly identified.¹¹⁴ Consultation should take place before changes are made and should be part of the decision making process;¹¹⁵ its outcomes should be reported back to participants.¹¹⁶ People should be given advance notice that consultation is taking place.¹¹⁷ The consultation should take place at regional as well as at State levels.¹¹⁸ Aged Care Australia stresses the importance of establishing formal and informal ways to receive the views of older people and their representatives.¹¹⁹ Other common themes of the Commission's consultation follow.

- ***Consult more and more often.*** Submissions say the program should place more emphasis on consultation.¹²⁰ It should be on a regular basis¹²¹ because of rapidly changing demographics and mix of services.¹²²
- ***Involve service providers.*** Service providers should be encouraged to act as a conduit for consultation with consumers.¹²³
- ***Establish advisory groups.*** Submissions suggest various kinds of advisory groups, including
 - customer councils on residential care to evaluate current service performance, advise on possible new or modified services, recommend outcome measures, develop quality assurance procedures, research client needs and monitor complaints and outcomes¹²⁴
 - residents' councils at a regional, State and national level, made up of representatives from residents' committees and linking into the Minister's Advisory Committees¹²⁵

- a special panel to monitor and evaluate the effectiveness of services for older people and their carers, made up of consumer representatives, community members, a lawyer, a social or welfare worker and a medical practitioner¹²⁶
- a body independent of government including representatives of service providers and people who have 'hands on' experience in caring for relatives who are disabled or who have dementia¹²⁷
- non-English speaking background advisory structures in each State and Territory.¹²⁸
- ***Special strategies are needed to consult with people from non-English speaking backgrounds.*** Submissions say special initiatives are needed to consult effectively with people of non-English speaking backgrounds.¹²⁹ Smaller and newer ethnic communities may not have developed formal structures and may find it particularly difficult to take part in mainstream consultative processes.¹³⁰ The Department of Immigration and Ethnic Affairs says it is best to require formal consultation with groups representing people of non-English speaking background as they are not always aware of mainstream consultation processes.¹³¹ One submission suggests giving resources to regional and State and Territory community based organisations which represent a wide spectrum of ethnic community groups, to strengthen their advocacy role and to co-ordinate the development, promotion and monitoring of aged care services in their catchment area.¹³²

4.6 Ministerial advisory bodies. Submissions discuss the relative merits of the now disbanded Consumer Forums for the Aged (the forums) and the recently established Older Australians Advisory Councils. Some submissions support such bodies.¹³³ They are said to be excellent for the two way flow of information.¹³⁴ Other submissions criticise the forums: people on them were 'ministerial appointees and do not genuinely ... represent the very frail, very old people'¹³⁵ and these kinds of advisory bodies can 'become very convenient and ... very tame'.¹³⁶ Suggestions for how these types of bodies could work more effectively include

- better promoting their work¹³⁷
- appointing
 - members on the basis of their knowledge and experience as users of the system, as people who are actively involved in assisting users of the system and as representatives of all sections of the community including those with special needs¹³⁸
 - direct service providers, as well as consumers, for a more balanced view or, alternatively, funding research officers to work intermittently and on site with direct service providers to gather consumer input¹³⁹
- ensuring older people of non-English speaking backgrounds are adequately represented¹⁴⁰
- assessing the experience of the forums before determining to what degree the legislation should delineate matters such as the consultation process and the rights of members to seek redress where there has been no adequate response to issues raised.¹⁴¹

4.7 What the legislation should say. Submissions support the idea that the new legislation should refer to the role consultation plays in the program.¹⁴² They say that this would give the Commonwealth's commitment to consultation a higher profile. The legislation should not be too prescriptive¹⁴³ because there are many different ways to consult. There are various suggestions for what the legislation should say about consultation. It could

- endorse the principle of consultation¹⁴⁴
- say that the views of older people should be taken into account in determining how and where services will be provided¹⁴⁵

- outline the formal consultative processes that the program now has in place,¹⁴⁶ such as the Older Australians Advisory Councils¹⁴⁷
- ensure that consultations with older people, service providers and the Older Australians Advisory Councils must take place before there are changes to aged care laws¹⁴⁸
- formalise consultation with service providers,¹⁴⁹ accompanied by a Commonwealth/industry consultation protocol and giving a legislative right to go to the AAT should a dispute arise.¹⁵⁰

One submission does not support legislating for consultation but instead favours making consultation evident in the Department's policies and activities.¹⁵¹

The Commission's recommendation

4.8 Getting the views of older people, their carers and representatives is an extremely important step towards implementing social justice and access and equity. The Commission supports the continued existence of formal State, Territory and national Ministerial advisory committees. It recognises the difficulties associated with finding out the views of older people, particularly the frail aged. It demands careful planning and adequate time and resources. The Commission takes the view, however, that consultation with older people and their carers should be a fundamental part of a program designed to meet the needs of older people and their carers. Knowing what consumers want and need is essential to the appropriate design and delivery of aged care services. It allows for a more sensitive response to the needs of people from special needs groups. There cannot be proper accountability for the community resources that go into aged care services without adequate consultation with users. The Commission considers that the program should direct more resources towards consulting with older people, placing special attention on getting the views of the frail elderly and people from special needs groups. The type and breadth of consultation needed will vary, depending on the issue. In some cases very direct, local or regional consultation will be appropriate. In others national consultation strategies will be necessary. **The Commission recommends that the new legislation should reflect the importance of consultation to the program. One of the objects included in the legislation should be to develop policies, administer programs and evaluate them in the light of appropriate consultation.**

Planning

Legislative framework

4.9 There are few legislative provisions relating to planning. The process is mostly governed by administrative practice. The main legislative provision is the Minister's power to publish in the *Gazette*¹⁵² the maximum number of places that may be established in a State, Territory or region for each aged care service type for a particular time period. For nursing homes and hostels the legislation provides that the Minister cannot make approval related decisions if the result would be to exceed these maximum numbers.

Current planning processes

4.10 **The Commonwealth sets planning ratios.** The Commonwealth sets targets for the number and kind of aged care places it will fund. Its current target is 40 nursing home places, 52.5 hostel places and 7.5 Care Packages for every 1 000 people aged 70 years or over. Ratios were first developed in 1986 following a review of nursing homes and hostels.¹⁵³ This review estimated the number of people in nursing homes that would not need to be there if alternative personal care and social support services were in place. The ratios were calculated by working out the ratio of nursing home beds occupied by people really needing them to the total aged population. Since then there has been a gradual reduction of nursing home beds in proportion to the aged population and an increase in hostel places and home and community care. The ratios were evaluated in 1991 as part of the Aged Care Reform Strategy Mid Term Review.¹⁵⁴ The Review endorsed the ratios, with minor modifications that saw the introduction of Care Packages. The program keeps the balance between nursing home, hostel and Care Package places under constant review.

4.11 **There is an annual planning round.** Each year

- the Minister allocates a certain number of new places to each State and Territory for the following three years¹⁵⁵
- the maximum number of new nursing home, hostel and Care Package places that can become operational for the year is published in the *Gazette*
- Aged Care Advisory Committees (ACACs)¹⁵⁶ in each State and Territory look at a range of data¹⁵⁷ and advise the Minister which regions and special needs groups have the greatest need for nursing homes, hostels and Care Packages
- the Minister approves the targeted areas and special needs groups¹⁵⁸
- by advertising the Department invites applications for funding to provide services, nominating geographical areas where new places are available and special needs groups to be catered for.

Finally, the Department assesses the applications and advises the Minister on which proposals should be approved for funding.

What the discussion paper asks

4.12 In the discussion paper the Commission asks if the planning process is adequate to ensure that nursing homes, hostels and Care Packages are placed where they are needed most. Many submissions address this issue. The vast majority say that it is not.

What submissions say about the planning process

4.13 ***There are not enough services.*** In consultations and submissions the Commission was told that, in some areas at least, there are not enough services.¹⁵⁹ Some submissions say that 40 nursing home places per 1000 may not be enough,¹⁶⁰ at least not in some regions.¹⁶¹ Areas of particular shortage mentioned include

- services for people with dementia¹⁶²
- services in remote areas¹⁶³
- other country areas¹⁶⁴ and
- areas with a disproportionate number of retirees.¹⁶⁵

On the other hand, a country town may be allocated more beds than it needs because any fewer would not be viable.¹⁶⁶

4.14 ***Planning data is not always up to date or sensitive enough.*** Some submissions say that the demographic data on which the planning process is based is often out of date and does not reflect the rapid growth that may have occurred in some areas or the mobility of older people.¹⁶⁷ There may be a rapid increase in the number of retirees in a district that does not show up statistically until the next census.¹⁶⁸ The consequence of this is that the number of beds does not catch up with the population and there may be a serious shortage of places.¹⁶⁹ One submission says that most, if not all decisions, have been based on statistical parameters rather than any comprehensive review of where resources are needed most.¹⁷⁰ Factors other than demographics need to be considered, including the unique needs of rural cities,¹⁷¹ rural communities¹⁷² and regional needs.¹⁷³ Assessment and placement details determined by requiring that Assessment Teams keep regional, centralised waiting lists would help.¹⁷⁴ Aged Care Australia says current benchmarks should be complemented by a qualitative assessment of community needs. This should involve assessing the needs of people with dementia and people with psychogeriatric problems.¹⁷⁵ There is said to be no long term planning for the ethnic aged.¹⁷⁶ To ensure that their needs are catered for planners should collect more sensitive client data including data on religious identification.¹⁷⁷ The Department of Immigration and Ethnic Affairs suggests the Department use data from its settlement database to update existing census data.¹⁷⁸

4.15 *The planning process is not flexible enough.* A number of submissions say that the planning process is not flexible enough.¹⁷⁹ As a result there are some areas with long waiting lists¹⁸⁰ and others with comparatively low demand and high supply.¹⁸¹ Some submissions criticise the 70 years plus focus of the planning ratios.¹⁸² The residential care benchmarks are said to be arbitrary and do not reflect actual levels of need for such services. They should be regularly reviewed and updated.¹⁸³ The targets need to be more flexible: 'there is no convincing evidence that an ideal or necessary mix of nursing home or hostel beds and Care Packages exist.'¹⁸⁴ Needs may be better met by being able to 'cash in' or convert residential places to community care,¹⁸⁵ or nursing home to hostel places and vice versa.¹⁸⁶ In some areas, particularly in the country, the service needed is too small to be financially viable.¹⁸⁷ An area may be allocated a number of residential places but be unable to sustain them. Existing targets do not take into account the migration of retirees to particular areas¹⁸⁸ and the unique characteristics of some places.¹⁸⁹ There may be a time lag between the identification of need and the delivery of the service.¹⁹⁰ The program should better provide support during the intervening period.¹⁹¹ Some submissions criticise the submission based approach to planning and service delivery. It presents problems for some non-English speaking background groups¹⁹² and for people with dementia.¹⁹³

4.16 *There should be an integrated approach to planning.* Submissions say that there should be an integrated approach to planning which takes into account all programs as well as the existing services in an area.¹⁹⁴ In particular, the impact of HACC services in an area and the existing balance between residential and community care should be considered.¹⁹⁵ Planning for new Care Packages needs to be linked to planning for HACC services rather than planning for residential care because the failure to take an integrated approach to Care Packages and HACC has led to fragmentation and confusion in local areas on the part of both service providers and consumers.¹⁹⁶

4.17 *The planning process should be more transparent.* Submissions say there should be a more transparent and accountable planning process, with more information about it available on request.¹⁹⁷ One submission favours the development of publicly available, five year forward plans identifying areas needing services. This would enable agencies to plan their activities rather than wait to respond to an annual funding round.¹⁹⁸

4.18 *There should be changes to planning consultative strategies.* Some submissions are critical of how Aged Care Advisory Committees (ACACs) operate.¹⁹⁹ Groups which are better resourced, more articulate, aware of the consultation process and participating in it are said to be at an advantage in getting their views considered. The committees are not suitable for people from Aboriginal and Torres Strait Islander and non-English speaking background communities, who are under represented on them.²⁰⁰ The process of appointment to ACACs should be published and community nominations encouraged.²⁰¹ One submission says that the role of the committees is not well defined. Committees should be responsible for reviewing the implementation and effectiveness of aged care programs. In short, the submission says that because the effectiveness of aged care is so dependent on the relationship between its different parts, ACACs should look at the performance and integration of the aged care system as a whole.²⁰² A number of submissions identify interest groups who should be included on ACACs, or at least should be consulted in the planning process. They include representatives of the local community,²⁰³ local Assessment Team members,²⁰⁴ people from non-English speaking backgrounds²⁰⁵ and Aboriginal and Torres Strait Islander communities,²⁰⁶ people with dementia²⁰⁷ and service providers.²⁰⁸ Ethnic Aged Care Advisory Committees should exist in all States and be directly linked to ACACs.²⁰⁹ Consultation and planning proposals should recognise State mechanisms such as Consultative Committees on Ageing.²¹⁰ State representatives on ACACs should be given time to consult with regional staff to better determine needs.²¹¹

The Commission's recommendations

4.19 *There should be better indicators of need.* Submissions reveal concern that the data on which the planning process is based may not be as good as it should be. The Commission is aware that matters other than demographic data is important in planning services. Nevertheless appropriate demographic data should be the basis of the planning process. The Commission understands that the Australian Bureau of Statistics (ABS) is currently developing strategies to enhance the delivery of more accurate and timely data, especially data arising from the census, and that the Department, a major user of ABS services, is actively supporting the ABS in this endeavour. **The Commission recommends that to further refine the aged care planning**

process the Department, together with the Australian Bureau of Statistics, should develop more appropriate indicators of need than are currently used.

4.20 *What the legislation should say.* The planning process is critical to the effectiveness of the program. It is the main way the Commonwealth can achieve a rational and equitable distribution of limited funds according to the objectives of the program. It is therefore appropriate that the new legislation should make some provision for the planning process. This ensures some level of national consistency which is important to achieve equity. It promotes transparency and accountability. In the Commission's view the legislation should set out, in broad terms, the steps in the planning process, including research and consultation. It should also identify the outcomes the process seeks to achieve. The legislation should recognise the need for a flexible planning process which is sensitive to the needs of particular geographic areas and special needs groups. Consultation with consumers, special needs groups and the aged care industry is essential to achieve this end. The process should include regular review, by a person or organisation that is independent of the Department, of the target ratios. The process should be able to accommodate peaks and troughs in the demand for services. **The Commission recommends that the new legislation should outline the process of needs based planning, including regular review of the planning ratios, and the outcomes the Commonwealth seeks to achieve. These outcomes should include**

- **an open, transparent and flexible planning process**
- **the identification and meeting of community needs, including the needs of special needs groups**
- **the provision of an adequate opportunity for the community in general and special needs groups in particular to participate in the planning process**
- **ensuring the community, especially special needs groups in the community, is informed about the planning process, related decisions and reasons for these decisions**
- **regular evaluation of the effectiveness of the planning process including**
 - **the appropriateness of data identified as being necessary to meet needs**
 - **the planning formula and the target ratios in the light of new data.**

Review of planning decisions

4.21 *Current law.* Planning decisions are made about

- the number of new aged care places to go to each State and Territory
- the maximum number of places that can become operational in any one year
- priority regions and special needs groups.

Decisions made by a Commonwealth agency unlawfully can be reviewed by a court (judicial review). The current legislation does not provide for administrative review (by the Administrative Appeals Tribunal or another body) of the substantive merits of planning decisions.

4.22 *The Commission's recommendation.* In its discussion paper the Commission asked if planning decisions should be merits reviewable. Most submissions that responded to the question say that they should be.²¹² Six submissions say these decisions should not be reviewable.²¹³ One of these says, however, that decisions must be made fairly and without bias and that they should not be based on the lobbying skills of the applicant organisation.²¹⁴ In the Commission's view, however, planning decisions are not suitable for merits review. The Minister decides, on the basis of advice from ACACs in each State and Territory, which regions and special needs groups have the greatest need for nursing homes, hostels and Care Packages and approves the targeted areas and special needs groups. Planning decisions are preliminary. They are concerned with ensuring that limited pools of funds are allocated in ways that best meet the objectives of the

program. Changing planning decisions would require taking money away from one State, region or organisation and giving it to another. The decisions do not necessarily or directly affect the interests of a person. If decisions are unlawful they can be reviewed by a court under the *Administrative Decisions (Judicial Review) Act 1977* (Cth). On the other hand, it is very important that planning decisions, like others made by the Department, should be made openly and transparently and on the basis of criteria known to all. **The Commission recommends that planning decisions should not be subject to review on their merits.**

5. Getting a service

Introduction

5.1 A person wanting to live in a nursing home or hostel or receive a Care Package at home must first be assessed by an Aged Care Assessment Team (Assessment Team, sometimes called an ACAT).²¹⁵ Assessment is one way the Commonwealth seeks to ensure that the limited number of aged care places go to people who need them most. This chapter discusses the assessment process.

- It describes the role of Assessment Teams and the assessment process and outlines the legislative and administrative framework for Assessment Teams (para 5.2-4).
- It sets out what submissions say about the assessment system including its strengths and weaknesses (para 5.6-13).
- It sets out what submissions say about how the new legislation should provide for the assessment process (para 5.14-16).
- It makes recommendations about how the new legislation should provide for the assessment process (para 5.17-20).
- It makes a recommendation about whether there should be merits review of the decision to grant approval to approve a person as eligible to receive a Commonwealth funded aged care service (para 5.21-24).

How do Assessment Teams work?

Role of Assessment Teams

5.2 Assessment Teams assess a person's medical, physical, psychiatric, psychological and social needs to determine his or her eligibility for nursing home care, hostel care or Care Packages and to recommend the most appropriate available aged care services. They refer people to HACC services if community care is appropriate. An approval from an Assessment Team is not a guarantee of a place in a service but, without an approval, a person cannot be accepted by a Commonwealth funded aged care service provider to receive care and the service cannot receive Commonwealth funding in respect of the person. Assessment Teams also provide information, advice and assistance to older people and their carers. Some keep centralised, regional waiting lists. Younger people with disabilities are also eligible for assessment for residential care if no alternative care options are available. The Commonwealth gives funding for Assessment Teams to State and Territory health authorities who manage the assessment program. States and Territories also contribute resources, including accommodation, furniture and equipment, financial and personnel management and staff.

The assessment process

5.3 A person may be referred to an Assessment Team by a GP, service provider, carer or family member or may approach an Assessment Teams directly, without referral. Assessment Teams usually include a doctor, nurse, occupational therapist and social worker, although this can vary. They are generally based at hospitals or geriatric centres and sometimes in community health centres or other separate facilities. Assessment Teams, where possible, visit clients in the place where they usually live. They talk to the client and, with his or her approval, to their carers, GP or other relevant people. The Assessment Team tells the client the results of its assessment and what its recommendation is.

Legislative and administrative framework for Assessment Teams

5.4 There are only indirect references in the legislation to Assessment Teams. Funding for assessment services is granted outside the legislation. Designated professional Assessment Team members are delegates

of the Minister to assess eligibility under the *National Health Act 1953* (Cth) for nursing home care. Assessment Teams are also the approved assessment authorities under the *Aged or Disabled Persons Care Act 1954* (Cth) to assess eligibility for hostel care (permanent and respite) and Care Packages. Assessment Teams approve a person as eligible to receive a service on the basis of criteria which, depending on the service type, are set out in legislation, various general conditions of funding and administrative guidelines. Funding is provided by the Commonwealth to State and Territory governments subject to conditions of grant set by the Commonwealth. Assessment Teams are subject to a set of general administrative guidelines²¹⁶ and a specific set of guidelines in relation to each aged care service type (nursing home, hostel and Care Packages). The Department is currently developing assessment guidelines on dementia and an Aboriginal and Torres Strait Islander Assessment Aid.

What the discussion paper asks

5.5 The discussion paper asks whether the system of assessment ensures that nursing home care, hostel care and Care Packages go to those who most need them. It also asks whether the new legislation should set out the basis on which an assessment decision is to be made and whether it should set out the composition and functions of Assessment Teams or alternatively the principles which should govern their operation.

What submissions say about the assessment system

Assessment system is generally working well

5.6 Submissions and consultations show that there is considerable support for the system of assessment.²¹⁷ Assessment Teams are said to do a 'good job'²¹⁸ and to promote equity.²¹⁹ Their gate keeping function is essential.²²⁰ One submission reports that 'we work well with our local ACAT and rely on their judgement to ensure that our vacant places are filled by those most in need'.²²¹ The Aged Care Assessment Program, NSW Evaluation Unit, says

In our view the present system is the best way to ensure that aged care resources are targeted at the most needy people. Trends in the utilisation of nursing home beds in recent years, together with assessment data collected by ACATs, support this contention.

It goes on to say that Assessment Teams are best equipped to carry out the complex process of establishing the type of care that is most appropriate to a disabled elderly person's needs because they have access to multi-disciplinary input as required. The system of local assessment teams ensures that the necessary local knowledge of social, economic and geographic conditions as well as service availability and quality is maintained. Assessment Teams are able to provide a continuity of care and assessment as the condition and situation of the older person changes. The process helps to ensure that aged care services are not wasted on people for whom the service is inappropriate.²²²

Some people may not have access to Assessment Teams

5.7 During consultations and in submissions there was concern expressed that some people may not have access to Assessment Teams because

- they may not know about Assessment Teams and the available care options²²³
- socially isolated older people may not be referred to Assessment Teams and so may have difficulty getting the aged care services they need²²⁴
- regular access to Assessment Teams is a problem in some rural and remote areas.²²⁵

Assessment and people of non-English speaking backgrounds and people from Aboriginal and Torres Strait Islander communities

5.8 Problems facing these groups. During consultations and in submissions the Commission was told of a number of concerns about the ability of Assessment Teams to respond appropriately to the needs of people of non-English speaking backgrounds and Aboriginal and Torres Strait Islanders. Submissions say that

Assessment Teams are generally not used by people from these groups.²²⁶ Concerns expressed about Assessment Teams include

- they lack sufficient resources to address the requirements of special needs groups²²⁷
- they often do not understand or do not take into account cultural difference²²⁸ and the need to ensure that all necessary steps are taken to perform a comprehensive assessment for people of non-English speaking backgrounds²²⁹
- they are making, or having to make (due to lack of alternatives), assessments that result in placements in which a person is culturally and linguistically isolated²³⁰
- they are not aware of available ethno-specific services²³¹
- they do not make use of or do not have access to telephone or other interpreter services²³²
- they do not take action to ensure that teams are known about and accessible to people in these groups.²³³

Aboriginal focus group participants say that they are assessed 'by white people according to white standards' which is highly inappropriate.

I don't like giving all that information to a white fella. (Aboriginal hostel resident)

It is difficult for women being assessed by men.

For women the situation is worse. Often a woman will only give a small piece of information and then clam up. Yes, there are limits, particularly if they are male interviewers. (*Aboriginal community worker*)²³⁴

5.9 Suggestions for improvement. Submissions suggest ways to make sure that the assessment process is available to, and meets the needs of, people of non-English speaking backgrounds and people from Aboriginal and Torres Strait Islander communities. They include

- requiring Assessment Teams to implement access and equity principles²³⁵
- developing national guidelines for culturally sensitive assessment and implementing them as a matter of priority²³⁶
- developing fully effective information strategies to raise public awareness about the role and function of Assessment Teams²³⁷
- requiring Assessment Teams to have an Aboriginal or Torres Strait Islander or person of non-English speaking background as team members²³⁸
- having a properly qualified interpreter present during the assessment process if necessary.²³⁹

Aboriginal focus groups participants express a strong preference for the involvement of Aboriginal people on Assessment Teams and in the assessment process.

You should have Aunty [Aboriginal worker] with you, or a relative. (*Aboriginal hostel resident*)

They said the basis on which assessment decisions are made should reflect Aboriginal history and culture, for example the importance of dying in their own country.²⁴⁰

Assessment process may not take adequate account of the feelings of the person being assessed

5.10 Person being assessed may not have very much control over the assessment process. The Commission was told during consultations and in submissions of concerns about whether the wishes of the older person being assessed are adequately taken into account. There may not appear to be any real choice.

I wasn't really in a position to argue the point. I had been months learning to walk and I'd lost a lot of weight in that time, and I wasn't in a very good state of health. (*hostel resident*)

Relatives of the person being assessed may be under pressure to do something quickly.

At that point in time the critical issues for us were that he'd had the stroke, his insurance was running out and the hospital had calculated the date of the last day of his insurance. So we had a short time frame, we needed to get the care, his insurance was running out, and we had to find somewhere. (*relative of a nursing home resident*)

Older people may feel they have not been given an opportunity to participate in the assessment process.

There was a couple of ladies came and they asked a lot of questions - 'assessed' was the word they used, suitability for a nursing home. It was our suitability for the nursing home [they assessed] and not the nursing home's suitability for us. (*nursing home resident*)

The focus groups report says that many residents were unclear on the details of their assessment and that some had not felt in a position at the time to question or argue. Focus group participants express concern about the unhappiness of residents they knew who had had the decision to move into residential care made for them and who had been forced to move.²⁴¹

They blame their families and they blame people for throwing them onto the garbage heap. They can't cope ... they are the ones who are very unhappy. When you've made the decision yourself ... if you know that you've got no choice, if you've got to the stage when you've got to be supervised you've got to do it with grace. Once you've made up your own mind you can do it with grace. (*hostel resident*)²⁴²

The process is said to be stressful for older people and to engender fear, in particular, fear of being prevented from returning home.²⁴³ One submission says that the 'complex interpersonal dynamics and the balance of rights between the person cared for and the carer are factors which seem to be sometimes neglected in the assessment process'.²⁴⁴

5.11 Suggestions for improving the assessment process. Submissions suggest a number of ways in which the assessment process could be improved to take more account of the feelings of the person being assessed and to ensure that their rights are protected. These include

- giving greater recognition to the participation of the person being assessed and the participation of carers (where appropriate) in the assessment process²⁴⁵
- consumer representation on Assessment Teams²⁴⁶
- including the family doctor, family members and the carers in the decision making process²⁴⁷
- changing the name from 'Aged Care Assessment Teams' to make them less intimidating.²⁴⁸

Relationship between assessment services and other services

5.12 A number of submissions say that Assessment Teams do not necessarily ensure that aged care services go to those most in need because Assessment Teams cannot guarantee access to aged care services. Service providers decide who gets a service.²⁴⁹ There may not be an appropriate service available. A number of submissions say that places are not always available although a person is assessed as eligible and is in fact in 'desperate' need.²⁵⁰ Some approved clients receive no service at all.²⁵¹ Places may not necessarily be offered to those most in need.²⁵²

Priority of placement is determined by providers of services based on the care level of the client they wish to accommodate at any point in time.²⁵³

Residential facilities usually focus on the level of dependency rather than the needs of the potential resident in the context of his or her social situation.²⁵⁴ Although they rely on the Assessment Team's judgement, nursing homes necessarily retain the right of final say as only they are aware of all the ramifications of a new admission on the home and the residents.²⁵⁵ Finally it has been suggested that Assessment Teams that are based at hospitals may find themselves under pressure from the hospital to move people out quickly.²⁵⁶

Other issues raised in submissions

5.13 There were other concerns raised during consultations and in submissions.

- ***Inconsistency in assessment across Australia.*** The Commission was told of many regional differences among Assessment Teams: they may have different standards, priorities and resources.²⁵⁷ One submission says that a person assessed as requiring nursing home care in one region may be found to be suitable for a Care Package in another.²⁵⁸ Submissions say
 - the medical model adopted by some Assessment Teams may not always be in the best interests of the older person²⁵⁹
 - assessment guidelines should be reviewed to ensure to make sure people in need do not miss out on care simply because they are not in physical need²⁶⁰
 - the impact of caring on the health and well-being of carers should be²⁶¹ but is not always taken into account.²⁶²

A factor in inconsistency is said to be the lack of clear guidelines for Assessment Teams in relation to hostel care and Care Packages.²⁶³

- ***Need for highly skilled staff and thorough assessment.*** Some submissions emphasise the importance of skilled staff to achieve accurate assessment, particularly accurate assessment of people with dementia or developmental or psychiatric disabilities.²⁶⁴ Some say that some Assessment Teams do not have the necessary staff expertise.²⁶⁵ On the other hand, it may be that long term support needs cannot effectively be based on an assessment conducted on one short visit.²⁶⁶

Providing for the assessment process in legislation

Support for setting out the basis on which an assessment decision is made

5.14 Consultations and submissions received show strong support for the Commission's proposal to set out in the new legislation the basis on which an assessment decision is made.²⁶⁷ Submissions say this would promote consistency,²⁶⁸ help overcome 'confusion and sometimes frustration over this process',²⁶⁹ guide Assessment Teams and aid the review processes.²⁷⁰ It would make Assessment Teams responsible and accountable to the community they serve²⁷¹ and enable people and their relatives to understand the process and the decision.²⁷² One submission says

Older persons and their families or carers should have access to the assessment processes and legislative imprimatur should be given to this right, including clear statements about process of review and appeal.²⁷³

However, legislation should not deprive Assessment Teams of the flexibility they need to operate effectively.²⁷⁴ Those who oppose setting out the basis for assessment in legislation do so mostly because they believe it would make the system too inflexible.²⁷⁵ Participants in focus groups generally support the idea of setting out the basis of an assessment decision in legislation. One resident felt she had been disadvantaged by the failure of a social worker in an Assessment Team to explain the basis on which she was making judgements and recommendations about her capacity to continue living in a hostel.²⁷⁶

Support for setting out the composition and functions of Assessment Teams

5.15 The Commission's consultations and submissions received show some support for setting out the composition and functions of Assessment Teams in legislation.²⁷⁷ Support was qualified by concerns that

legislation should take a broad approach to the composition of Assessment Teams.²⁷⁸ A number of submissions say that the composition needs to be flexible enough to enable and encourage multi-skilling of professionals and a multi-disciplinary approach and to take into account the lack of professionals in rural areas.²⁷⁹ The composition of Assessment Teams should also cater for individual communities which in Australia vary considerably.²⁸⁰ One submission says it might be useful to identify and include in legislation core functions which impact on clients but not other functions that may be performed by some Assessment Teams but not all.²⁸¹ Reasons for supporting setting out the compositions and functions of Assessment Teams include that

- it would ensure some consistency and clarity of their role and operation for consumers across regions and States²⁸²
- it would help to clarify the independence of Assessment Teams and allow them to assert their autonomy²⁸³
- it could incorporate a user rights focus²⁸⁴
- it could entrench the need for a multi-disciplinary or holistic approach²⁸⁵
- it could acknowledge the importance of key team members,²⁸⁶ for example it could require that there be someone who has had continuing contact with an older person²⁸⁷ or who has expertise in cross-cultural issues.²⁸⁸

Support for setting out the principles which should govern the operation of Assessment Teams

5.16 Submissions and consultations also show support for setting out the principles which should govern the operation of Assessment Teams in the new legislation.²⁸⁹ Some submissions favour this approach as an alternative to setting out their composition and functions as suggested in the discussion paper.²⁹⁰ Some favour this in addition to the other suggested ways. They suggest some principles that could be included, such as the relationship between the Commonwealth and States and Territories, consumer protection, advocacy, access and equity, multi-disciplinary composition, holistic assessment and collaboration.²⁹¹ On the other hand, one submission says that if the principles are expressed broadly enough to avoid inhibiting innovation they may not be very meaningful and serve little useful purpose.²⁹²

The Commission's recommendations

Legislation should give power to fund assessment services

5.17 Assessment Teams are a key part of the Aged Care program. The current legislation makes only indirect reference to them. In the Commission's view this is inappropriate. The legislation should give the Minister power to make grants to the States and Territories to enable them to provide assessment services. It should also give the Minister the power to fund other organisations to provide assessment services to allow for future initiatives. The legislation should set out, in broad terms, the kind of matters that should be dealt with in funding conditions. **The Commission recommends that the legislation should give the Minister power to fund State and Territory governments and other organisations for the purpose of ensuring the provision of services to assess older people for Commonwealth funded aged care services. The legislation should set out in broad terms the kinds of matters that should be dealt with in conditions of funding.**

Legislation should set out outcomes for the assessment process

5.18 ***The recommendation.*** In the Commission's view the new legislation should set out clear objectives or outcomes which the assessment process and Assessment Teams aim to achieve. This would promote clarity and consistency in the operation of Assessment Teams across Australia. It would give Assessment Teams clear direction and consumers a better understanding of their role. The outcomes for the assessment process should emphasise the consumer focus of assessment and consumers' rights. The Commission does not favour listing the functions of Assessment Teams or setting out their composition in legislation. These matters are

better left to administrative guidelines. Putting them in legislation would be too prescriptive and would limit flexibility. **The Commission recommends that the new legislation set out the outcomes which the assessment process aims to achieve. The outcomes should include ensuring**

- **user participation in the assessment process (for example, by encouraging the involvement of the client, carers, family members and advocates)**
- **maximum consumer choice and fully informed user consent to care arrangements made after assessment**
- **clients, carers and other representatives are fully informed about the assessment process, its effect on them, their role in it and their complaint and appeal rights**
- **equity of access and referral to appropriate services for all clients including people of non-English speaking backgrounds, people from Aboriginal and Torres Strait Islander communities, people living in rural or remote areas and people with dementia**
- **assessment teams are multi-disciplinary and can access a range of disciplines, skills and experience sufficient to make an accurate, holistic assessment of a person's needs in a culturally appropriate way**
- **the assessment process considers the physical, medical, psychiatric, psychological and social needs of clients**
- **people are referred as promptly as possible to appropriate services they are eligible to receive, including services that will help the older people to do the things they could do before they became ill or disabled (for example rehabilitation services).**

5.19 *Providing information to consumers about assessment is critical.* One of the outcomes of the assessment process that the Commission recommends should be in the new legislation is ensuring that clients, carers and other representatives are fully informed about the assessment process, its effect on them, their role in it and their complaint and appeal rights.²⁹³ Older people and their carers should have access to adequate information about where to find an Assessment Team. They should be told about the assessment process and how it will affect them before the assessment process begins. They should know, for example, that though they are assessed as eligible for a service they may not be offered a place in a service. They should also know that they do not have to take a place if they are offered one. In the Commission's view the Department should require that Assessment Teams provide their clients with the following information:

- what the assessment process involves
- who will be on the Assessment Team
- what team members will do
- the right of the older person to participate in the process, with or without an advocate, to express his or her views and have them taken into account in any decision
- complaint and appeal rights
- that being assessed as eligible does not mean the older person must then enter or receive a service
- how to go about getting access to services for which they are eligible.

The Commission acknowledges that many Assessment Teams would already give their clients this information as a matter of good administrative practice.

Legislation should set out the steps in the assessment process

5.20 All players in the assessment process, including older people and their representatives, Assessment Teams and service providers, should know the basic steps in the process by which people are assessed for Commonwealth funded aged care services. The decisions Assessment Teams make affect the rights and interests of older people and their carers. Decisions of this kind should be provided for in legislation to ensure a sound basis for accountability and review. Commonwealth policy is that, given current budgetary constraints and the demands of social justice and access and equity, Commonwealth aged care funding should be spent on services for older people whose care needs have reached a certain level. The Commonwealth uses Assessment Teams to determine whether a person's needs have reached that level, whether he or she is eligible for a Commonwealth funded aged care service and, if so, what kind. The current legislation and guidelines do not make it clear that this is an important role for Assessment Teams. The guidelines emphasise the role Assessment Teams play in 'helping' people to 'choose' the appropriate kind of care.²⁹⁴ The legislation and guidelines should reflect the reality of the assessment process. This will help ensure that older people and their representatives can properly protect their interests in the process. **The Commission recommends that the new legislation should set out the basic steps in the approval process, including**

- **the eligibility criteria to get a particular level of aged care**
- **the steps required to be approved as eligible, including assessment by an Assessment Team to see if the eligibility criteria are met (while making it clear that being approved as eligible to receive a service does not automatically entitle a person to an aged care place)**
- **requirements on approval, including written notification to applicants of**
 - **what service or services the person is eligible to receive**
 - **the period of approval**
 - **if the approval is limited in anyway, how**
 - **obligations attached to approval and in what circumstances the approval can be revoked**
- **what happens if approval is not granted, including notification in writing of**
 - **reasons for the decision**
 - **appeal rights.**

Review of decisions about a person's eligibility for aged care services

Current review arrangements

5.21 If an Assessment Team does not approve a person as eligible for a service the person wants, he or she might seek informal review of the decision by contacting the director of the Assessment Team or the local office of the Department. Some decisions relating to eligibility for nursing home care are formally reviewable, first by the Minister and then by the Administrative Appeals Tribunal (AAT). These are decisions

- to approve a person as eligible for nursing home care, including where approval is sought by a service after an older person enters a nursing home because of an emergency
- to declare that a person is no longer in need of nursing home care because he or she would be better accommodated somewhere else.

Decisions about eligibility for hostel services and Care Packages are reviewable first by the Secretary of the Department and then by the Minister. There is no AAT review of these decisions.

The discussion paper proposal

5.22 In the discussion paper the Commission provisionally proposed that the decision whether to grant approval to a person as eligible to receive nursing home care, hostel care or a Care Package should be subject to review by the Minister and the AAT.

What submissions say

5.23 Almost all submissions received by the Commission on the issue support giving older people the right to have this decision reviewed by the Minister and then by the AAT.²⁹⁵ Some submissions make additional comments. They say that

- the current delays to the AAT detract from its effectiveness as a review mechanism²⁹⁶
- the appeal process must be straight-forward, clear and uniform²⁹⁷
- there is a need to improve assessment guidelines for hostels and Care Packages for administrative review to be effective²⁹⁸
- there should be a specialist aged care appeal body instead of the AAT.²⁹⁹

Submissions that do not support the proposal do so on grounds that the AAT is not the best body to hear appeals³⁰⁰ and that the review process proposed would be too formal.³⁰¹ Alternative suggestions include

- a process similar to that used to hear appeals in relation to social security payments³⁰²
- giving the review function to the independent complaints body proposed by the Commission because it would have a better understanding of issues relating to older people and their care needs.³⁰³

The Commission's recommendation

5.24 The decision whether to approve a person for an aged care service is critical to older people and their carers. It is not equitable that some but not all people can appeal to the AAT if they have not been approved as eligible to receive a particular aged care service. The Commission believes there should be a two stage appeal process available to older people and their carers if they are refused approval as eligible to receive a particular aged care service. **The Commission recommends that the decision to grant approval to a person as eligible to receive a Commonwealth funded aged care service should be reviewable first by the Minister and then by the AAT.**

6. Access and equity

Introduction

6.1 In the discussion paper the Commission outlines the strategies the Aged Care program (the program) uses to implement the Commonwealth's social justice and access and equity policies and asks whether these strategies are effective. This chapter reports the outcomes of the Commission's consultations. It includes recommendations on matters that fall within the Commission's terms of reference. This chapter is about how new legislation should reflect the Commonwealth's social justice and access and equity policies.

- It outlines the goals of the Commonwealth's access and equity and social justice programs (para 6.2-3).
- It describes the program strategies for achieving access and equity and social justice (para 6.4-7).
- It reports what submissions say about the effectiveness of these strategies in meeting the needs of people of non-English speaking backgrounds (para 6.9-14).
- It reports what submissions say about the effectiveness of these strategies in meeting the needs of people from Aboriginal and Torres Strait Islander communities (para 6.15-23).
- It reports what submissions say about the effectiveness of these strategies in meeting the needs of people who live in rural or remote communities (para 6.24-26).
- It identifies ways of overcoming the problems identified in submissions and makes recommendations directed to ensuring that the goals of the Commonwealth's access and equity and social justice strategies are met (para 6.27-40).
- It outlines current strategies for ensuring services are affordable, reports what submissions say about their effectiveness and makes a recommendation (para 6.41-47).
- It reports what submissions say about other groups with special needs, including people with dementia and people with a disability, and makes recommendations (para 6.48-55).
- It outlines the current law and practice in relation to veterans, reports what submissions say about whether legislation should distinguish between veterans and other older people and makes a recommendation (para 6.56-60).

What are the goals of the Commonwealth's access and equity and social justice programs?

Access and equity

6.2 The Commonwealth is concerned to ensure that the services it provides and the services it funds are available on an equitable basis to all Australians. It wants to ensure that a person's access to or use of a service is not limited because of his or her race, religion, culture or language group. The Commonwealth is particularly concerned to ensure that use of services by people of non-English speaking backgrounds and people from Aboriginal and Torres Strait Islander communities is not limited and that services meet their needs. It calls the approach it has taken to achieve this the 'access and equity strategy'.

Social justice

6.3 The Commonwealth also has a broader concern to make sure that individual Australians are treated fairly and justly, have control over their day-to-day lives and have real choices. People may be disadvantaged because of their gender, race or ethnic background, because their income is inadequate, because they have a disability or because they live a long way from cities. The Commonwealth has developed a social justice

strategy which requires Commonwealth agencies to take special steps, within their program areas, to make sure that people who are likely to be disadvantaged are not.

Program strategies for achieving access and equity and social justice

Special needs groups identified

6.4 The Department of Human Services and Health (the Department) has identified certain groups in the community whose use of services may be limited unless particular attention is paid to them. In the Aged Care program they are identified to be

- people of non-English speaking backgrounds
- people from Aboriginal and Torres Strait Islander communities
- people who live in rural or remote areas
- people who are financially or socially disadvantaged.

In this chapter the identified groups are called special needs groups.

Ensuring that nursing homes, hostels and Care Packages are available to these groups

6.5 The program provides some extra funding to ensure that nursing homes, hostels and Care Packages are available to older people who belong to the identified groups. It gives capital funding to hostels according to the proportion of financially disadvantaged people in its catchment area. (This proportion of places must be made available to people who are financially disadvantaged.) It gives extra funding to

- ethno-specific nursing homes and hostels
- some Aboriginal and Torres Strait Islander services to help them provide appropriate services
- nursing homes and hostels to meet the higher costs of building in rural or remote areas
- organisations providing Care Packages for the higher costs of setting up in rural and remote areas
- nursing homes for the higher recurrent costs of operating in remote areas.

It also gives funding for workers to help older people to remain in secure housing or to receive aged care services.

Priority entry for people from special needs groups

6.6 A nursing home or hostel may be approved to provide care specifically or mainly for a specified special needs group. People from the specified group must be given priority of entry.

Developing and funding flexible or 'special' services

6.7 The needs of older people who belong to the identified groups may not be able to be met within standard nursing home, hostel and Care Package models. A community may be too small to support a nursing home or hostel. Different ways of providing care need to be considered. The program has set up pilot projects and funds organisations to provide more flexible or 'special' models of aged care. They are usually found in rural and remote communities that are too small to support stand alone residential services or in communities where standard residential services are not appropriate. They include multi-purpose centres and multi-purpose services. Other flexible service pilot projects include providing nursing home care to people at home, nursing home and hostel care in one facility and 'clustering'.³⁰⁴

Discussion paper

6.8 In its discussion paper the Commission describes the strategies the program has developed to ensure that delivery of services to older people is consistent with the Commonwealth's access and equity and social justice policies. The discussion paper invites comment on the effectiveness of these strategies. In relation to special needs groups the Commission asks the following questions.

- How can nursing homes, hostels and Care Packages be made more easily available to, and meet the needs of, people from special needs groups?
- What sort of flexible or special services will best meet the needs of special needs groups?

The following paragraphs in this chapter address these issues in relation to

- people of non-English speaking backgrounds
- people from Aboriginal and Torres Strait Islander communities
- people who live in rural and remote areas.

They outline the existing strategies to ensure that the services available to older people generally are available to older people in these groups. They report what the Commission was told in submissions and during consultations.

People of non-English speaking backgrounds

Existing strategies

6.9 The program has a number of strategies for increasing the access of older people of non-English speaking backgrounds to aged care services. They include

- extra funding to ethno-specific nursing homes and hostels
- developing a flexible service model called clustering that brings together people of a particular ethnic background in a single residential facility
- promoting more culturally appropriate assessment and referral services
- developing services in mainstream facilities that are more culturally sensitive
- refining consultative processes that involve ethnic communities in the planning of aged care services.

What submissions say

6.10 *Submissions identify problems faced by people of non-English speaking backgrounds.* The main problem identified during consultations and in submissions is that there are not enough culturally appropriate services for older people from non-English speaking backgrounds.³⁰⁵ There are not enough ethno-specific hostels and nursing homes to meet identified needs.³⁰⁶ Older people whose English is not good face particular problems;³⁰⁷ some may revert to their mother tongue as they get older.³⁰⁸ A number of submissions suggest that people of non-English speaking backgrounds are under represented in residential care. Some say that this is one consequence of the lack of information about aged care services, especially culturally appropriate ones.³⁰⁹ Others say that people of non-English speaking backgrounds do not often seek entry to residential care;³¹⁰ there is a 'certain stigma attached to institutionalised residential care'.³¹¹ Finally, submissions say that there is not enough funding allocated to provide services for ethnic communities. One submission says that the Department seems to underestimate the on-going costs of cultural clustering and similar models and expects that untrained staff could provide the level of care expected from an ethno-

specific service.³¹² Other submissions point out that small and under-resourced communities find it hard to get together the balance of funds necessary to purchase the land on which to build a residential service.³¹³

6.11 Flexible models of care. Submissions suggest there should be more flexible models of care to meet the needs of people of non-English speaking backgrounds.³¹⁴

- **Cultural 'clustering' projects.**³¹⁵ Some submissions report that existing clustering projects are working well³¹⁶ and that clustering is a more effective strategy for increasing the availability of places than establishing special facilities.³¹⁷ One submission notes, however, that clustering will not work without up-to-date referral systems and co-ordination to match residents with appropriate service providers.³¹⁸
- **Ethno-specific services.**³¹⁹ Ethno-specific services are important because they provide relevant reference points for government or generalist community organisations delivering services to people of non-English speaking backgrounds.³²⁰ Common language, history and religious celebrations, shared assumptions about social roles, attitudes, food and music 'gives meaning to the fabric of daily existence and provides connectedness to others and the broad social system'.³²¹ There should be funding for the delivery of ethno-specific community care services, not just for residential services.³²²
- **Other approaches.** Other suggestions include
 - having a variety of approaches, ranging from broad mainstreaming through to clustering models and ethno-specific services³²³
 - joint ventures between ethnic community groups and mainstream service providers³²⁴
 - allowing the conversion of different types of aged care places to suit varying needs³²⁵
 - semi-community based alternatives such as mixed group hostels, nursing homes with strong family and community involvement, Care Packages, community options and the clustering concept³²⁶
 - service delivery based on a South Australian model where a community plan is being drawn up to decide on the allocation of funds from all sources to achieve the most appropriate care options for its older people, children or community members with a disability.³²⁷

6.12 The language needs of older people of non-English speaking backgrounds should be met. Many submissions focus on how to ensure that language requirements of older people using services are met.³²⁸ Suggestions include funding and providing better access to interpreter services³²⁹ and the employment by services of bilingual staff.³³⁰

If [the Commonwealth] are dinkum about social justice and access and equity, then the right to interpreting should be assured specially.³³¹

6.13 Existing services should be more sensitive to the needs of people of non-English speaking backgrounds. Submissions strongly support the development of more culturally sensitive services.³³² One submission recommends that a best practice manual on managing aged care in a culturally diverse setting should be developed and that a register of cultural assistance best practice models in Australia should be developed and maintained.³³³ Another submission favours providing linguistically and culturally appropriate non-institutional care in local communities.³³⁴ Departmental and service staff should have appropriate training: staff of services should have cross cultural training;³³⁵ outcome standards monitoring staff and assessment team members should also be trained in cultural awareness.³³⁶ Information relating to the care of special needs groups, for example, information about religious beliefs, traditional family structures and special dietary needs, should be made available to all aged care services.³³⁷ Submissions favour the employment of ethnic link workers,³³⁸ bilingual support workers and health workers of non-English speaking backgrounds.³³⁹ Finally, one submission says that service providers should be encouraged to address the needs of older people of non-English speaking backgrounds in consultation with ethnic community groups and organisations to develop a range of services which better meets their needs.³⁴⁰

6.14 ***There should be appropriate information about services for older people of non-English speaking backgrounds.*** Lack of information is said to be a significant barrier to providing care to the ethnic ageing population.³⁴¹ Submissions say there should be better information about available ethno-specific services.³⁴² Information should be communicated in a culturally appropriate way, preferably in the first language of the person to whom it is being communicated.³⁴³ One submission suggests there should be an integrated aged services marketing strategy for people of non-English speaking backgrounds aimed at the community as well as existing and future service providers.³⁴⁴

Aboriginal and Torres Strait Islander communities

Recent Commonwealth Government initiatives

6.15 ***New Aboriginal and Torres Strait Islander aged care strategy.*** The Commonwealth Government recently conducted consultations with a wide range of Aboriginal and Torres Strait Islander communities and organisations involved in the delivery of aged care services.³⁴⁵ The main themes resulting from these consultations were

- the community itself should initially identify community needs, with assistance from government agencies
- communities want flexible services, tailored to the needs of the specific community, rather than standard models which are often inappropriate
- the size, remoteness and financial position of many communities mean they have limited access to funds apart from capital grants given to establish facilities
- hostels have difficulties covering initial start up costs and need ongoing top-up funding because of a range of operational and cultural factors
- culturally appropriate information about aged care services should be made available to Aboriginal and Torres Strait Islander communities.³⁴⁶

As a result of this initiative an Aboriginal and Torres Strait Islander aged care strategy has been developed.³⁴⁷ The strategy, which has funding of \$9.5 million over four years attached, involves

- developing more flexible aged care services that meet the needs of individual communities including a review of existing and planned services
- more support to services and communities by Department project officers including training, education and needs assessment
- financial assistance through project development grants and start up grants special funding, on a case by case basis, to residential facilities experiencing difficulties.³⁴⁸

6.16 ***Many problems raised in submissions are now being addressed by Government.*** The Aboriginal and Torres Strait Islander aged care strategy described in the paragraph above was still being developed when the Commission's discussion paper was published. It is now in the early stages of implementation. It is the aim of this strategy to address many of the problems identified in the Commission's consultation and submissions. The following paragraphs report what submissions say and, where appropriate, note the implications of the strategy.

What submissions say

6.17 ***Services are not always culturally appropriate.*** In its consultation the Commission heard some evidence of recent success in establishing viable and appropriate aged care services for Aboriginal and Torres Strait Islander communities.³⁴⁹ It also heard that existing mainstream services, particularly residential services, are usually not culturally appropriate for people from Aboriginal and Torres Strait Islander

communities.³⁵⁰ Participants in the Commission's consultation in Katherine identified language difficulties, inappropriate food and social activities, reluctance to leave one's community to get care and an alien physical environment as problems.³⁵¹ The Commission has been told that mainstream models of care, particularly nursing homes and hostels, do not suit the needs of people from Aboriginal and Torres Strait Islander communities, especially those from rural, remote or more traditional communities.³⁵² Submissions from service providers in remote Aboriginal communities tell of the enormous troubles they face trying to establish a hostel service³⁵³ and trying to ensure the hostel model meets the diverse needs of the community.³⁵⁴ The Commission was told of inappropriate residential services being built, which are badly designed and hard to maintain.³⁵⁵ Focus groups with Aboriginal participants reveal that the institutional framework of nursing homes was equated with other more formidable institutions such as 'boys homes' in the time of the Aboriginal Protection Board.

A couple of old timers couldn't handle it [in a nursing home]. (*Aboriginal elder living in the community*)³⁵⁶

One Regional Council lists as a current concern accommodation that takes into account the needs of the transient nature of the Aboriginal community.³⁵⁷ The Commission acknowledges that the new Aboriginal and Torres Strait Islander aged care strategy seeks to address the issues raised in this paragraph.

6.18 *Funding and resources are inadequate.* Services in Aboriginal and Torres Strait Islander communities face difficulties remaining economically viable.³⁵⁸ One submission says that Aboriginal aged care providers do not have access to the same resources as mainstream groups. For example, they cannot charge higher weekly fees or entry contributions. Community fundraising is very difficult.³⁵⁹ Communities often lack the infrastructure to develop appropriate services and may not have staff with necessary skills to provide appropriate care.³⁶⁰ Many services face higher running costs, particularly in rural or remote areas.³⁶¹ Transport to and from services is a problem.³⁶² While these costs are recognised in capital funding, they are not in recurrent funding.³⁶³ The Commission acknowledges that the new Aboriginal and Torres Strait Islander aged care strategy seeks to address these issues.

6.19 *There is sometimes confusion and delay in getting services started.* Aboriginal and Torres Strait Islander communities starting services are faced with the confusing prospect of dealing with three levels of government and several departments or agencies with aged care responsibilities.³⁶⁴ This makes getting projects off the ground very time consuming and frustrating. The Commission was told of projects where capital funding and support was provided by a government department that did not consult other relevant funding bodies about who would provide ongoing recurrent funding, therefore putting the viability of the services at risk.³⁶⁵ Departmental officers 'on the ground' and Aboriginal and Torres Strait Islander communities alike face enormous frustration getting a service established once a clear need has been identified.³⁶⁶ Reasons for this include program rules (both legislative and administrative), the various government agencies that may need to be involved and lengthy funding approval times.

6.20 *Let communities themselves identify and satisfy their aged care needs.* The Commission heard how important it is for Aboriginal and Torres Strait Islander communities themselves, with help from the program, to identify their own needs and to develop services to meet them.³⁶⁷ It is important that the community is consulted right from the start.³⁶⁸ Comments of focus groups participants indicate that services must have strong links with Aboriginal organisations or be controlled by the Aboriginal community if they are to be used by Aboriginal elders.³⁶⁹ They expressed a strong desire 'to be with your own people'. Submissions say that it is important that services for Aboriginal people are not judged on non-Aboriginal expectations of what is adequate care or physical surroundings.³⁷⁰

6.21 *'Dying on my land with my community and my people'.* The Commission was told many times the importance people from Aboriginal and Torres Strait Islander communities place on being able to die in their community, on their land, with their own people. One focus group participant was moving to a non-Aboriginal run nursing home in another part of the State to be able to die in his own country. When asked how he felt about this he stated

It is the most important thing. (*Aboriginal elder living in the community*).³⁷¹

People are often willing to do without what non-Aboriginal society considers 'adequate care' to be able to die in their own country.³⁷² For this to happen services must be provided to community members within their

own community³⁷³ so people do not have to move away.³⁷⁴ Many of the participants in focus groups said they preferred services delivered in the community. The importance of family and community is clear.

It is a family affair, all their relations and friends help and that sort of thing, they look after the elders. (*Aboriginal elder living in the community*)³⁷⁵

While recognising this, there is a need for support systems to provide a 'safety net' for families or communities who, for a number of reasons, cannot cope.³⁷⁶ The Commission heard that for many reasons, including unemployment and growing dislocation in some Aboriginal communities, younger people were no longer taking the same level of responsibility for their elders.³⁷⁷ Focus group participants felt that their communities were no longer listening to them and that the respect that elders used to have is no longer given, particularly in non-Aboriginal models of aged care services.³⁷⁸

6.22 *There should be more flexible rules and more flexible service delivery.* Submissions say that legislative and administrative rules, while still ensuring an appropriate level of financial accountability, should be simplified. The Commission heard of the need for flexible services, developed by and for individual communities.³⁷⁹ As one submission says

being a small community, small minority group ... we will never be able to justify the need to establish different facilities for different needs. And also we don't particularly like to put our people in little boxes. And I think that what we have proved at our caring place is that we can meet the needs of people with dementia ... the needs of people that need nursing home care ... [or] hostel care as long as we've got the resources.³⁸⁰

The 'boxes' the Department puts around aged care, child care, housing and disability services frustrate appropriate service delivery, particularly in small or remote communities. There is a need for more integrated service delivery.³⁸¹ People want to be able to convert or cash in allocations for residential care places and use the money for community care services. Under the aged care strategy this is now possible. The Commission's proposals for common legislative provisions and provisions allowing for more flexible service delivery were welcomed in its consultations as one way of better meeting the needs of Aboriginal and Torres Strait Islander communities.

6.23 *There should be appropriate training and support.* During consultations and in submissions the Commission was told of the importance of training. There should be cross cultural training for non-Aboriginal support workers, both Departmental and other workers. Training is also needed for Aboriginal and Torres Strait Islander service providers and carers.³⁸² The Commission heard suggestions for employing a mobile trainer and facilitator³⁸³ or outposting program officers to identify needs, maintain contact and provide infrastructure and support³⁸⁴ to Aboriginal and Torres Strait Islander people living in remote communities.

People who live in rural or remote communities

Existing strategies

6.24 The Department has developed multi-functional models to improve access to services by people living in communities too small to support standard model, single function services. There are two multi-functional models.

- ***Multi-purpose centres.*** Money for multi-purpose centres is allocated from existing standard model funding arrangements.³⁸⁵ They serve as a base for a wide range of services, usually from a single centre, such as
 - acute hospital care
 - residential aged care
 - child care
 - services for younger people with a disability

- other community services such as counselling, drug and alcohol services
- professional health services such as physiotherapy, podiatry and occupational therapy.
- **Multi-purpose services.** These are established by pooling State or Territory and Commonwealth funds.³⁸⁶ They provide a range of health and aged care services such as
 - general hospital care
 - primary health care
 - paramedical services
 - residential aged care
 - support services for older people which allow them to continue living in the community.

Extra funding is also provided for services operating in rural or remote areas.³⁸⁷

What submissions say

6.25 Submissions identify problems faced by people in rural and remote areas. During consultations and in submissions the Commission was told of the particular problems facing people living in rural or remote areas.

- **Access to services is not easy.** It is not easy for people who live in rural and remote areas to get services,³⁸⁸ such as Assessment Teams, HACC³⁸⁹ and nursing home care.³⁹⁰ Rural and remote areas are often too small to support mainstream aged care services such as nursing homes.³⁹¹ The closure of many smaller hospitals in rural areas means extra travel and long waiting lists.³⁹²
- **Services may not be viable.** Mainstream aged care services in rural and remote areas may not be economically viable because they may cost more to run (it costs more to attract staff to work in remote services)³⁹³ or because of fluctuating occupancy levels. One submission says there were problems when they tried to meet the needs of their small NSW community by establishing an integrated system of care services and being funded for a multi-purpose co-located service and a hostel with a small number of places.³⁹⁴

6.26 Submissions suggest solutions. Consultations and submissions suggest more attention should be directed towards flexible services and funding support.

- **Flexibility.** People say the program needs to be more flexible in the type of services provided in rural or remote areas. It should
 - allow the 'cashing in' of residential places for home and community care
 - allow the ratios the government has set for each care type to be changed
 - enable nursing home and hostel care to be provided from one facility³⁹⁵
 - fund more multi-purpose services and multi-purpose centres³⁹⁶
 - approve the provision of alternative aged care packages as a stop gap measure where services have been approved but are not yet operational.³⁹⁷
- **Funding initiatives.** Suggestions for improving funding include
 - developing guidelines as part of the funding process to take into account the great differences, disparity of distances and isolation facing services in rural or remote areas³⁹⁸

- providing travel assistance grants for services providing Care Packages, similar to 'Regional Travel Assistance Grants' which the Department's Children's Services Program pays to Family Day Care schemes to enable the provision of services in more remote areas.³⁹⁹

How should social justice and access and equity be reflected in the new legislation?

Discussion paper

6.27 In its discussion paper the Commission asks how the Commonwealth's and the program's social justice and access and equity strategies should be reflected in the new legislation. Many submissions addressed this question. Some responded by identifying strategies that the program should adopt to overcome existing barriers. Others focussed on what the legislation should say about access and equity and social justice. The following paragraphs report what submissions say.

What submissions say - strategies to overcome existing barriers

6.28 ***More funding for services providing for special needs groups.*** Some submissions say that more funding is needed to provide adequately for special needs groups.⁴⁰⁰ One submission says that the ability of services to meet the needs of these groups is largely a funding issue: facilities which provide more flexible or special services are often smaller, cost more and require additional funding.⁴⁰¹ More money is necessary to overcome language and cultural barriers,⁴⁰² for example, by employing interpreters⁴⁰³ and bilingual staff.⁴⁰⁴

6.29 ***There should be better consultation at all levels.*** The program should consult with people to identify their real needs and involve consumers in decision making at all stages of care and service delivery.⁴⁰⁵

6.30 ***Departmental and service provider staff should have appropriate training.*** Many submissions say that service providers should have appropriate training to help them meet the needs of special needs groups.⁴⁰⁶ One submission says that

training strategies that equip mainstream aged care service providers to appropriately work with a diverse population are essential. Such training should be seen as ongoing and be complemented by active recruitment of staff with bilingual and other culturally appropriate skills in addition to otherwise formal qualifications.⁴⁰⁷

Some submissions suggest cultural awareness training for people who monitor outcome standards.⁴⁰⁸

6.31 ***Monitor compliance with access and equity strategies.*** Some submissions favour mechanisms to monitor access and equity and social justice strategies and to evaluate their effectiveness.⁴⁰⁹ This could be achieved by requiring all Government agencies and service providers to report on steps taken to ensure that 'access and equity' procedures have been put in place and by checking their compliance.⁴¹⁰ Service providers should show how they have recognised the needs of their community, through processes like outcome standards.⁴¹¹

What submissions say - giving legislative expression to access and equity

6.32 ***Set out the main principles in legislation.*** A number of submissions say that access and equity and social justice principles should be incorporated into legislation as a statement of the Government's aims.⁴¹² The principles should be in clear and simple language.⁴¹³ Legislation should not, however, be prescriptive; it should be enabling and should include social justice and access and equity outcomes.⁴¹⁴ Some submissions suggest matters that should be included in the legislation, for example, the current access and equity and social justice strategies.⁴¹⁵ Some submissions nominate key issues that must be addressed in legislation to achieve access and equity and social justice outcomes. These include

- quality, choice, security, efficiency and equity⁴¹⁶
- clearly articulated eligibility criteria and equitable assessment processes; effective quality assurance; effective complaints mechanisms; effective provision of information about services; the need for co-

ordinated service provision; capacity to develop innovative and flexible services to respond to changing needs within a strong service system and policy framework.⁴¹⁷

6.33 **Focus on needs.** Some submissions say the new legislation should reflect the focus on meeting the needs of older people.⁴¹⁸ One submission says that in particular, it should attempt to take into account the complexities and uniqueness of the needs of older people living in remote Aboriginal and Torres Strait Islander communities.⁴¹⁹

6.34 **Promote flexibility.** Submissions agree that flexible funding and establishing flexible services is necessary.

It is important that the legislation encourages and facilitates this process, rather than hinders the development of new approaches.⁴²⁰

It is important to avoid framing legislation that is too prescriptive in identifying particular models of care for special needs groups because meeting the needs of special needs groups is about putting together a basket of services to meet individual needs.⁴²¹ New legislation is seen as a

wonderful opportunity for us to develop the funding in a way that will allow operators as much flexibility and [give] residents as much choice as possible.⁴²²

The Commission's views

Introduction

6.35 Many of the problems discussed in this chapter do not apply only to older people of non-English speaking backgrounds, older people from Aboriginal and Torres Strait Islander communities and older people living in rural and remote communities. They are problems facing older people and their carers generally. The Commission deals with them and makes related recommendations in other chapters of this report. The following paragraphs outline the Commission's approach to several issues.

Flexibility is the key to overcoming problems identified in submissions

6.36 The Commission recognises the significant advances made by the program to ensure that groups identified as special needs groups have access to services. It acknowledges, for example, the recent work done by the program, in consultation with other Departments, to develop a new long term strategy to ensure appropriate services for older people from Aboriginal and Torres Strait Islander communities. On the other hand, the Commission heard that significant problems still exist in meeting the needs of special needs groups. A recurring theme was the need for flexibility. In the Commission's view more flexible funding of services and funding more innovative services and models would help people of non-English speaking backgrounds, people from Aboriginal and Torres Strait Islander communities and people living in rural or remote communities. Flexibility is one of the principles underlying the Commission's report and its recommendations. Mechanisms for achieving it are discussed elsewhere in this report.⁴²³

Services should be developed in consultation with special needs groups

6.37 A consistent theme in consultation and submissions is that aged care services do not always meet the particular needs of special needs groups. The Commission is aware that the Commonwealth has established Older Australians Advisory Councils. It also acknowledges that appropriate consultation with Aboriginal and Torres Strait Islander communities is one of the issues addressed by the new Aboriginal and Torres Strait Islander aged care strategy. In the Commission's view there should be extensive consultation with the community to identify needs and how to meet them. The consultation should include members of ethnic communities and Aboriginal and Torres Strait Islander communities. In chapter 4 of this Report the Commission recommends that the new legislation should reflect the importance of consultation to the program by including as one of the objects of the legislation to develop policies, administer programs and evaluate them in the light of appropriate consultation. In the Commission's view the Department's consultation processes should always include consultation with representatives of special needs groups within the community.

Information about services should be directed to special needs groups

6.38 Consultation and submissions reveal that there is a lack of information about aged care services in the community generally. Lack of information is a particular problem for people from Aboriginal and Torres Strait Islander communities and people of non-English speaking backgrounds. In chapter 11 of this report the Commission recommends that the program develops a coherent and ongoing information strategy that should ensure, among other things, that the unique information needs of people from special needs groups are taken into account, particularly those relating to language and reading. In the Commission's view, material should be developed with members of the communities to whom it is to be targeted. The Commission also recommends in chapter 11 that legislation should require services, as a condition of funding, to give specified information about the service to consumers. The program should develop suitable information packages which also cater for the particular needs of people in special needs groups. In the Commission's view the package should be available in a range of community languages to help services meet the needs of people from non-English speaking backgrounds.

The Commission's recommendations

Principles of access and equity should be included in the objects clause of the legislation

6.39 The Commonwealth has developed policies which express a commitment to access and equity. The Commission's view is that the legislation should provide a clear policy statement of the Commonwealth's commitment that the Aged Care program should be administered in a way that ensures compliance with social justice and access and equity principles. **The Commission recommends that the objects clause of the legislation should include the objects**

- **to ensure that the program provides services and support which are available on an equitable basis and appropriate to all members of the community irrespective of race or ethnic background, religion, culture or language, disability, geographic location, socio-economic status, gender and sexual orientation**
- **to ensure that services are provided where they are needed, are targeted to people who need them most, and are affordable.**

Special needs groups should be provided for in legislation

6.40 The Department has identified special needs groups or groups in the community whose use of services may be limited unless particular attention is paid to them.⁴²⁴ Submissions and consultations indicate that the need to give special attention to these groups remains. To make clear the program's goals in allocating public resources to initiatives for people in special needs groups the new legislation should make an explicit reference to them. **The Commission recommends that the legislation should include a provision regarding special needs groups. The provision should say that the special needs groups include**

- **people from non-English speaking backgrounds**
- **people from Aboriginal and Torres Strait Islander communities**
- **people who live in rural or remote areas**
- **people who are financially or socially disadvantaged.**

The legislation should give the Minister authority to direct funds to initiatives designed to improve access to aged care services and equity within the program for special needs groups.

Ensuring that services are affordable

Existing strategies for ensuring that services are affordable

6.41 The Department takes measures to ensure that people who are financially disadvantaged are not prevented from using services. These include

- setting a limit on the amount a nursing home may charge residents
- regulating, on the basis of the resident's or client's income and assets, the maximum amount that a hostel or provider of Care Packages can charge users
- requiring as a condition of approval that a hostel or organisation providing Care Packages provides a certain number of places to people who are financially disadvantaged
- giving hostels a higher amount of recurrent funding to provide services to people who are financially disadvantaged as well as a higher amount of capital funding for each approved place which must be filled by a person who is financially disadvantaged.

The discussion paper asks whether the program's measures to ensure people are not excluded from services because they cannot afford them are achieving that goal.

What submissions say

6.42 ***Submissions support Government policy.*** Most submissions received by the Commission on this issue say that these measures are not achieving their goal.⁴²⁵ Other submissions say they are.⁴²⁶ Some support the policy objectives of the measures.⁴²⁷ One submission says the higher amount of funding for people who are financially disadvantaged is a 'welcome solution' for smaller community groups.⁴²⁸ The Older Women's Network says that because of the Government's policy many women are able to afford to go into hostels and nursing homes. It says

nearly 75% of residents in nursing homes and hostels are women. Women not only generally live longer than men but also have less access to superannuation. Their ability to save and invest over pre-retirement years was limited. [So] older women enter nursing homes and hostels with fewer options for care, few supportive relatives and friends and less capacity to supplement basic provisions in institutional care.⁴²⁹

The Commonwealth's measures to help people who are financially disadvantaged are said to be effective in nursing homes. This is because the amount paid is capped, places are equally available to people who are financially disadvantaged and those that are not⁴³⁰ and because entry contributions are not allowed.⁴³¹ What submissions say about the financial barriers to people accessing respite care is discussed in chapter 7.⁴³²

6.43 ***Hostel quotas for people who are financially disadvantaged are not realistic.*** Most submissions that address affordability of services discuss the problems that the hostel quota scheme causes for people who are financially disadvantaged. Therefore the Commission has focused on this issue. What submissions say about other related matters is also set out below.⁴³³

- ***Not enough hostel places for people who are financially disadvantaged.*** Many submissions say the demand for places set aside for people who are financially disadvantaged is greater than the supply.⁴³⁴ They highlight the fact that people who are financially disadvantaged have to wait longer for places⁴³⁵ or are forced by their circumstances to enter a hostel that may not be their first choice.⁴³⁶ Submissions say people have a better chance of getting into a hostel if they can afford to pay an entry contribution.⁴³⁷

Providers of any service are out to make a profit or at least come out without debt. So people who are unable to assist with that goal will be excluded without any reason.⁴³⁸

Many services are said to be providing more than their quota of places for people who are financially disadvantaged.⁴³⁹ Services with high levels of places for people who are financially disadvantaged are

said to have trouble remaining financially viable.⁴⁴⁰ One submission expresses concern that hostels are not strictly complying with the requirement that they must provide a certain number of places to people who are financially disadvantaged.⁴⁴¹

- ***Quota of places for people who are financially disadvantaged is too high in some areas.*** In marked contrast to the submissions reported above, the Commission was told that in some areas there are not enough people to fill quotas for people who are financially disadvantaged⁴⁴² and that because they are reserved for people who are financially disadvantaged they cannot be used for others.⁴⁴³

6.44 ***The definition of a financially disadvantaged person creates problems.*** Some submissions express concern about the definition of a 'financially disadvantaged person'.⁴⁴⁴ One submission says that greedy relatives have exploited the requirement that a person must not have owned a home for two years before entering a hostel by creating 'instant' pensioners without a home or other assets, and deprive the real needy of residential care.⁴⁴⁵ Another submission says people arrange their affairs to be able to meet the definition of a person who is financially disadvantaged, thereby excluding others.⁴⁴⁶

6.45 ***Groups facing particular problems.*** Various submissions point to particular groups in the community who still face problems affording aged care services. People of non-English speaking backgrounds, particularly recently arrived groups are said to be financially, socially and culturally disadvantaged.⁴⁴⁷ Services are expensive for migrants who are ineligible for a pension,⁴⁴⁸ sponsored migrants who become disabled and whose family cannot afford residential care and people sponsored under the Family Reunion Scheme who are not eligible for social security payments when they first arrive and live with their children.⁴⁴⁹ Older people with a disability whose spouses work and who cannot claim the pension and whose family cannot afford the cost of residential care may also face problems.⁴⁵⁰ Many people with dementia need a higher level of services on a daily basis which can be expensive.⁴⁵¹ For Aboriginal people pensions are often viewed as a family or community resource.⁴⁵² Aboriginal people living in remote communities face high living costs.⁴⁵³ In focus groups a number of participants spoke of being unable to afford hostel care because they cannot afford the entry contribution.⁴⁵⁴

6.46 ***Solutions suggested by submissions.*** Submissions suggest a number of different solutions to these problems. These include that

- targets for people who are financially disadvantaged should be carefully reviewed, taking into account the fact that the proportion of financially disadvantaged people who need access to hostel services may be greater than their proportion of the population as a whole⁴⁵⁵
- means testing should take into account income sharing because in some cultures and families this is expected and necessary for survival⁴⁵⁶
- there should be standard documentation to establish whether a person is financially disadvantaged instead of the current inadequate situation where organisations just ask clients.⁴⁵⁷

The Commission's recommendation

6.47 The Commission supports the continuation of Commonwealth initiatives to ensure that people who are financially disadvantaged are not excluded from getting aged care services. It is concerned, however, about the message it heard during consultations and in submissions from many parts of Australia that the number of places that hostels must set aside for people who are financially disadvantaged are not sufficient to meet demand and that people who are financially disadvantaged are waiting longer than others to get access to services. **The Commission recommends that the Commonwealth review the level of access to hostel places for people who are financially disadvantaged to ensure the levels are appropriate.** As part of this review the Commonwealth should consider the impact an increase in places for people who are financially disadvantaged may have on the financial viability of hostels.

Submissions identify other groups with special needs

People with dementia

6.48 **Introduction.** The Commission does not raise issues related specifically to people with dementia and their carers in its discussion paper. However many participants in its consultations did. There were conflicting views on whether or not people with dementia should be a special needs group. Some say they should,⁴⁵⁸ as is the case in the HACC program.⁴⁵⁹ The Alzheimer's Association Australia notes the anomaly of a 'special interest group' outnumbering the main group given that it is estimated that up to 60% of nursing home residents have some degree of dementia.⁴⁶⁰

6.49 **Current strategies for people with dementia and their carers.** It is estimated that 60% of people in nursing homes and 13% of people living in hostels have moderate to severe dementia.⁴⁶¹ The Commonwealth funds a range of services specifically designed to meet the needs of people with dementia and their carers. People with dementia and their carers are a priority group for community support services such as the HACC and the Commonwealth Respite for Carers program. In recognition of the rapidly increasing aged population and the resulting increase in the number of people with dementia, the Commonwealth developed a National Action Plan for Dementia Care.⁴⁶² About \$31 million over five years has been allocated to strengthen the capacity of the aged care system to meet the needs of people with dementia and their carers. The plan contains seven elements. These are diagnosis and assessment, services for people with dementia, quality service delivery, research and evaluation, community awareness and policy and planning.

6.50 **Problems with caring for people with dementia.** Submissions deal in detail with the problems facing people with dementia and their carers. The main themes are summarised below.

- **Shortage of services for people with dementia.** The main comment in submissions is that there are not enough services, community, respite and residential, for people with dementia.⁴⁶³ There are not enough services for people with moderate to severe dementia who have disruptive behavioural problems.⁴⁶⁴ One submission says that hostel accommodation for people with dementia is relatively scarce and expensive so Assessment Teams can only recommend nursing home care which is not appropriate.⁴⁶⁵
- **Existing services are inappropriate.** Submissions say that existing services do not cater adequately for the needs of people with dementia.⁴⁶⁶ Even new hostels do not have appropriate physical features and seldom provide a necessary level of staff supervision.⁴⁶⁷ Staff are not adequately trained to deal with the needs of people with dementia.⁴⁶⁸ Nursing homes are designed for the needs of people who are physically frail and are unsuitable for people with dementia who may have to be chemically or physically restrained if doors cannot be locked because of fire regulations.⁴⁶⁹ This can lead to a loss of self-esteem and a reduced quality of life for the person with dementia and feelings of guilt amongst staff as they are unable to provide adequate and appropriate care for residents.⁴⁷⁰ One relative of a nursing home resident with dementia who took part in the focus groups said

This has been the worst year of my life. They've tried to make people think I'm mad or obsessed about my father.
But ... I'm just an ordinary person. (*relative of a nursing home resident*)

Comments from two relatives of residents with dementia of non-English speaking backgrounds show a situation of 'double jeopardy'.

Quite often these cultural issues get interpreted as [the person] being a troublesome patient, and they're subjected to various ranges of sedatives and other drug therapies in the form of management. Rather than actually addressing the wider social and cultural issues which are probably the real issues they tend to resort to *various sorts of drug therapies*. (*relative of a nursing home resident*)⁴⁷¹

- **Funding inadequacies.** Some submissions say there is inadequate funding to provide services to people with dementia.⁴⁷² the Commonwealth hostel subsidy is said to be inadequate to provide for the survival of special hostel dementia units⁴⁷³ and there is a disincentive for residential services to take people with moderate to severe dementia who have behavioural problems because they are not funded at the highest level.⁴⁷⁴

- ***Integrated residential services.*** During consultations and in submissions the Commission was told of the problems residents who have no cognitive impairment experience when they are integrated with people with dementia.⁴⁷⁵ One submission says this creates a fundamental dilemma social justice and equity versus the rights of residents without dementia.⁴⁷⁶ In focus groups a number of hostel residents expressed special concern about the needs of fellow residents with dementia. One resident said

After 8 [pm] there are no staff there. There are two nurses on emergency call. I've found people with dementia at 2 o'clock in the morning and taken them back to their rooms. They don't know where they are. That's very distressing. (Hostel resident)⁴⁷⁷

6.51 ***Submissions suggest strategies for addressing problems.*** Submissions suggest ways to address the problems.

- ***More places and more funding.*** The Alzheimer's Association (Australia) has estimated that approximately 5,000 extra residential places are needed for people with dementia and people with significant behavioural problems. It acknowledges, however, that this is unlikely to happen unless a new funding system is developed to cater for the real costs of caring for them.⁴⁷⁸
- ***Special services for people with dementia.*** A recurring theme in submissions is that there should be facilities dedicated to providing services to people with dementia.⁴⁷⁹ Some submissions suggest what these should be:
 - special dementia units⁴⁸⁰ in hostels,⁴⁸¹ with better staff ratios than is currently the case⁴⁸²
 - dementia specific facilities in nursing homes⁴⁸³
 - dementia specific nursing homes⁴⁸⁴
 - a range of options including groups homes, fostering options and special care dementia units.⁴⁸⁵

The Alzheimer's Association (Australia) says consideration should be given to grouping together people with dementia and behavioural problems and people without dementia but with behavioural problems in some services. It says most mainstream services, supported by current training and environmental design initiatives, should be able to cater for the needs of most people with dementia. These services would need access to psychogeriatric services.⁴⁸⁶

- ***Better designed facilities.*** Some submissions say that existing services should be modified to cater for the needs of people with dementia.⁴⁸⁷ New facilities should be planned to take into account the needs of people with dementia.⁴⁸⁸
- ***Flexible service delivery.*** Several submissions say that more flexible service delivery might overcome some of the problems faced by people with dementia and their carers.⁴⁸⁹ One submission suggests that a multi-functional facility would be suitable for people who are in the 'no man's land' between hostel care and nursing home care and suggests that funding could be delivered as a Care Package and pooled to provide appropriate care.⁴⁹⁰
- ***Better staff training.*** One submission says adequate staff training in dementia care is crucial. Existing training is far from adequate.⁴⁹¹

6.52 ***The Commission's recommendation.*** The Commission's discussion paper does not directly address the issue of people with dementia. The Commission was surprised by the level of response from the public addressing the problems faced by people with dementia and their carers. The Commission acknowledges that the Commonwealth is working on specific strategies to better meet the needs of people with dementia and their carers. It is mid-way through implementing the National Action Plan for Dementia Care. It would therefore be premature for the Commission to comment on the progress of new initiatives or make specific recommendations relating to issues of dementia care. The overriding theme of the Commission's consultations is the need to provide appropriate care for people with dementia. The Commission considers that the Department should constantly review matters such as the availability and appropriateness of services

for people with dementia. **The Commission recommends that the new legislation should be flexible enough to ensure that a full range of appropriate care options can be developed to provide for the needs of people with dementia and their carers.**

People with a disability

6.53 Problems faced by people with a disability. During consultations and in submissions the Commission was told that people with a disability, both older people and young people, who need aged care services, or who currently use them, may experience multiple disadvantage.

- **Older people with an intellectual disability.** Some submissions express concern about the unmet needs of older people with an intellectual disability.⁴⁹² The 1994 National Forum on Ageing and Disability stated that existing policy, subsidy and funding arrangements do not adequately or appropriately support such people.⁴⁹³
- **Younger people with a disability.** Younger people with a disability are sometimes placed in aged care residential services, particularly in rural or remote areas⁴⁹⁴ because there is no alternative. This is inappropriate. Young people take up places needed by older people⁴⁹⁵ and are not well served by the services. They have very different needs from older people such as vocational and rehabilitation training.⁴⁹⁶ They face prejudice from service providers and older residents.⁴⁹⁷ One submission notes that the practice of accommodating younger people with disabilities in the aged care system continues even though most community groups and State and Commonwealth ministers recognise that it is inappropriate.⁴⁹⁸

6.54 Suggestions for improvement. Submissions provide a number of suggestions for how to cater for the needs of older people with a disability. They say

- older people with a disability should be consulted about the design of appropriate care models and services for them as do other special needs groups⁴⁹⁹
- the needs of older people with intellectual disabilities could be better met by
 - revising current arrangements, under both the Commonwealth/State Disability Agreement and other programs such as HACC, to ensure holistic support for them
 - funding Australia wide pilot programs to develop, trial and test new models of service delivery and funding for people with intellectual disabilities who are ageing⁵⁰⁰
- government should ensure appropriate accommodation, care and security for people with an intellectual disability and provide funding to organisations already providing services to these people⁵⁰¹
- there should be better co-ordination between disability and aged care services.⁵⁰²

6.55 The Commission's recommendation. In the Commission's view public policy should be directed towards providing accommodation more suitable than aged care residential services for younger people with a disability. Placing younger people in aged care residential services is inappropriate both for the younger people and the older residents. The Commission believes that special strategies may be needed to ensure that older people with a physical or intellectual disability have the same access to appropriate services as others do. Under the current Commonwealth/State Disability Agreement accommodation for people with a disability is the responsibility of States and Territories, not the Commonwealth. At the time of writing this Report the Commission had begun reviewing the Commonwealth's Disability Services program as part of its reference to review the legislation administered by the Department of Human Services and Health. This issue will be addressed as part of this review. **The Commission recommends that the new legislation should be flexible enough to ensure that a full range of appropriate care options can be developed to provide for the special needs of older people with disabilities and their carers.**

Veterans

Current law and practice

6.56 The Department of Veterans' Affairs (DVA) promotes care for veterans using mainstream Commonwealth aged care services. The *National Health Act 1953* (Cth) treats veterans a little differently from other nursing home residents.⁵⁰³ These distinctions are unnecessary and have the potential to discriminate against veterans. In practice the only distinction between veterans and other older people is the source of the money to fund their care. The DVA and the Department of Human Services and Health have funding arrangements whereby the DVA reimburses the Department for the costs of care provided to veterans.

The discussion paper

6.57 In its discussion paper the Commission provisionally proposes that the new legislation should not distinguish between veterans and other older people. It asks if there are any reasons why the new legislation should make the distinction.

What submissions say

6.58 **No legislative distinction.** Most of the submissions the Commission received on this issue said that the legislation should not make any distinction.⁵⁰⁴ One submission says

Legislation and services should be based on a person's need not on the possible origin of their need. A veteran may have different needs because of war service but a person who has suffered trauma or torture in other circumstances may have the same or greater needs.⁵⁰⁵

Some submissions place provisos on their answer. One submission says that if additional funds are required to meet demand they should be provided, for example by transferring them from DVA.⁵⁰⁶ Another says that veterans should not lose benefits received as a result of disability caused by war.⁵⁰⁷ In consultations it was said that it is unfair to others that veterans get a better deal in accessing services than other older people.⁵⁰⁸

6.59 **The distinction should continue.** Some submissions favour keeping the distinction between veterans and other older people in the new legislation.⁵⁰⁹ They say veterans deserve priority because they fought for their country.⁵¹⁰ The RSL says that any potential to discriminate against veterans in the legislation should be eliminated by harmonising and not by integrating or assimilating.⁵¹¹ One submission favours 'clustering' in hostels for ex-service people now in their seventies and over as 'it is sad to see them confined in the same facility with residents with dementia or psychiatric patients'.⁵¹² One submission notes that other legislation acknowledges special privileges and entitlements to veterans and this should be continued.⁵¹³ Another submission considers that if money from the DVA or from RSL subscriptions is used to provide aged care services then all those places should be reserved for veterans because their need will be severe in their next ten years of old age.⁵¹⁴

The Commission's recommendation

6.60 The Commission does not see any reason to continue the legislative distinction between veterans and other older people in the new legislation. The current legislation, strictly interpreted, has the potential to discriminate in a negative way against veterans. This is unfair. The Commonwealth Department of Veterans Affairs and the program can ensure administrative arrangements are in place to cater adequately for the special funding arrangements which now exist, without relying on legislative distinctions.⁵¹⁵ **The Commission recommends that the new legislation should not distinguish between veterans and other older people. Any distinctions should be catered for as a matter of administrative practice.**

7. Services for people living in the community

Introduction

7.1 One of the aims of the Commonwealth's Aged Care program (the program) is to provide services to help frail older people to remain living independently in the community as long as they are able and want to do so. The main strategies to achieve this aim are

- Home and Community Care (HACC)
- Care Packages
- the Domiciliary Nursing Care Benefit (DNCB)
- respite services.

The Commission will review legislation governing the HACC program at a later stage.⁵¹⁶ DNCB is discussed in chapter 8. This chapter discusses the other strategies - Care Packages and respite services.

- It outlines what submissions say about the availability of Care Packages and respite services generally (para 7.2-4).
- It describes Care Packages and reports what submissions say about them (para 7.5-10).
- It describes respite services and outlines what submissions say about the problems people have in accessing them, problems services face in providing them and ways of overcoming these problems and makes a recommendation about respite services (para 7.11-26).

Aged care services at home

Discussion paper

7.2 In its discussion paper the Commission considers services for people living in the community in the context of its discussion of access and equity and social justice. The paper outlines the main services for people at home and asks the following questions.

- To older people who choose to remain in their own homes and need care have appropriate and equal opportunity to make use of
 - Care Packages and
 - residential respite services?
- If not, of the groups the Department is aiming to provide for, which ones are missing out?

What submissions say

7.3 ***Demand for services outstrips the supply.*** All submissions received in response to the question about access to Care Packages and residential respite answer in the negative.⁵¹⁷ Submissions say services are only available on a limited basis.⁵¹⁸ Existing services are inadequately resourced.⁵¹⁹ They are not distributed evenly around Australia.⁵²⁰ An older person whose carer is also frail⁵²¹ or who has dementia or behavioural difficulties may have difficult getting a service.⁵²² Submissions questions whether older people always have a real choice between staying at home and residential care.

If the person has the choice between residential care or a [Care Package] and chooses the [Care Package], then it is questionable as to whether or not the individual is advised of the actual level of care that can be provided for \$27.40 per day.⁵²³

There is support for the current Commonwealth funded pilot programs which aim to provide more services to people at home, for example, nursing home type care.⁵²⁴

7.4 Who is missing out on services? Submissions say a number of groups in the community are missing out on Care Packages and residential respite services. They include older people

- of non-English speaking backgrounds⁵²⁵
- from Aboriginal and Torres Strait Islander communities⁵²⁶
- living in rural or remote areas⁵²⁷
- who are financially disadvantaged,⁵²⁸ from lower socio economic groups,⁵²⁹ who are socially isolated⁵³⁰ or socially disadvantaged⁵³¹
- with dementia⁵³²
- with a disability⁵³³
- who are homeless⁵³⁴
- requiring a nursing home level of care.⁵³⁵

Submissions say that many people miss out on services because they do not know about them.⁵³⁶ As one Aboriginal focus group participant said

Lots of people don't have access, this only comes by word of mouth, or if they read the newspapers. (Aboriginal elder living in the community)⁵³⁷

A number of submissions draw attention to the problems faced by older couples.⁵³⁸ There is little or no provision for couples in nursing homes or hostels,⁵³⁹ particularly if one person needs hostel care and the other nursing home care.⁵⁴⁰ One submission says that accommodation should be available for couples with varying levels of care needs.⁵⁴¹

Care Packages

What are Care Packages?

7.5 The program funds organisations to provide a package of care services to clients in their own homes. Care Packages are intended to be an alternative to hostel care, particularly where residential care is not viable or appropriate (for example in rural or remote communities). Money for Care Packages is allocated from the funding 'bucket' for hostel places.

Care Packages and HACC services

7.6 A recent review of the HACC program by the House of Representatives Standing Committee on Community Affairs, *Home But Not Alone*, notes the confusion created by the apparent similarities between Care Packages and HACC services.⁵⁴² It says that, while flexibility and greater consumer choice is obviously desirable, consumers may find it difficult to get a service if

- they cannot identify the gateway to the services they need and
- community care providers are not familiar enough with the range of appropriate services to advise them.

The report recommends that the Department define the boundaries and relationships between HACC and other aged care programs to minimise the confusion and to eliminate gaps in service provision at the boundaries of the programs.

What submissions say

7.7 Good model but there are not enough of them. The Commission heard a great deal of praise for Care Packages as an aged care service model.⁵⁴³ They are said to be particularly useful in rural or remote areas.⁵⁴⁴ The major problem identified in consultations and in submissions is that there are not enough Care Packages to go around.⁵⁴⁵ They are distributed sporadically⁵⁴⁶ and some areas of Australia do not have them at all.⁵⁴⁷ One submission says that despite the willingness of operators to take them on Care Packages are becoming available very slowly.⁵⁴⁸ Because they are administratively complex Care Packages are generally taken up by larger organisations so smaller providers and their clients miss out.⁵⁴⁹ If a population is too small to sustain the delivery of Care Packages the community misses out altogether, even though theoretically they may be entitled to a certain allocation as part of the planning process.⁵⁵⁰ If a person cannot get a Care Package he or she may have to go into a hostel which is in many cases a move that cannot be reversed.⁵⁵¹ A number of submissions say that many people do not know about Care Packages.⁵⁵²

7.8 Funding is inadequate. The Commission heard criticism that the level of funding available to provide Care Packages, is inadequate to provide for 'complex care needs'.⁵⁵³ One submission says that the care provided (1-3 hours a day) is often inadequate and that this can create situations where more care is needed, for example, if a frail elderly person falls and breaks a hip and becomes more dependent.⁵⁵⁴ In consultations the Commission heard that services in rural and remote areas should be given more money, for example, to cover the cost of petrol, so that they can travel to meet community needs.⁵⁵⁵ The amount of capital funding money the Commonwealth saves by providing Care Packages instead of residential care places was noted in consultations.⁵⁵⁶

7.9 Relationship between Care Packages and HACC services. Some submissions comment upon the overlap between Care Packages and HACC services.⁵⁵⁷ From the consumer's point of view⁵⁵⁸ and within the industry⁵⁵⁹ they are often indistinguishable. One submission says Care Packages are an example of the problem of the growing number of different services that have mushroomed without adequate co-ordination.⁵⁶⁰ There are disjointed provision strategies for HACC and Care Packages - what you get depends on where you live and what you can afford, not necessarily what you need.⁵⁶¹ More attention should be directed towards considering these linkages.⁵⁶²

The Commission's view

7.10 The Commission welcomes any measures to address confusion between Care Package and HACC service types. The Commission accepts the view expressed in consultations and submissions that there are not yet enough Care Packages. Care Packages help meet the overwhelming demand for more flexible service delivery and the provision of care services in the community. They are one solution to the problems facing special needs groups, particularly Aboriginal and Torres Strait Islander communities and people living in rural or remote areas. The Commission notes that the Commonwealth has increased the allocation of Care Packages since they were first introduced. It also appreciates that as arrangements currently exist, an increase in the number of Care Packages allocated will mean a reduction in the number of hostel places available in the community. While the number of Care Packages funded is clearly a matter of Government policy, the Commission's firm view is that it should continue to increase as a matter of social justice and access and equity.

Residential respite care

Existing services

7.11 Residential respite services. The program funds respite services in nursing homes and hostels to provide a break for older people and their carers. People pay the same amount for these services as permanent residents. They may be asked to pay a booking fee which is deducted from the amount they pay for the service. Residential service providers receive more money from the Commonwealth to care for residents needing respite than for permanent residents. The scheme works differently for each type of service.

- **Nursing homes.** Services get a higher rate of recurrent funding for respite residents who occupy a place which is vacant. There are no permanent places set aside for respite care. A service is allocated a

certain number of 'bed days' each year that can be used to provide respite services as part of their approval for recurrent funding.

- **Hostels.** Services get a higher amount of recurrent funding for respite residents than they do for permanent residents. They receive funding for all respite care residents requiring accommodation and basic support services only, whether or not the client is financially disadvantaged. Services may in practice provide respite services using the place of a permanent resident on leave but they get no extra money to do so. At the capital funding stage a service gets more money for a respite care place than an ordinary place. A service must provide a certain number of respite places as a condition of funding approval.

7.12 HACC respite services. The HACC program funds a range of services to help carers, including help with heavy linen, carer support groups, counselling and respite services. HACC funding supports respite services provided to people in their home and centre-based respite services.

7.13 Other more flexible respite care models. The program is running a 'Respite Options Pilot Projects Program'. The pilot aims to increase the use of respite services and to broaden the available choice of services. Aged Care Assessment Teams (Assessment Teams) and other community groups are funded to buy respite services for special needs groups, particularly people who are financially disadvantaged, and to help services with the cost of keeping respite places available.⁵⁶³ There are flexible respite schemes to cater for the needs of Aboriginal and Torres Strait Islander communities. The Katherine office of the Department, for example, has overseen the development of community based respite in an Aboriginal community, which it funded using money allocated for six hostel places.⁵⁶⁴ The Department of Health and Community Services of the Northern Territory piloted a project to provide support for Aboriginal people living in residential services to go back to their communities for respite.⁵⁶⁵ The Commission was told of a successful flexible respite care model being run by the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council in the Northern Territory using HACC funding.⁵⁶⁶

The discussion paper

7.14 The discussion paper identified problems with the current residential respite scheme. It asks whether residential respite services are easily available to older people, including special needs groups, and whether the different types of respite services available meet the diverse needs of older people. It asks whether some residential services are reluctant to provide respite services and if so why. It then asks how the system could work better.

What submissions say about access to respite services

7.15 Access to respite services. Nearly all submissions that responded to the question whether residential respite services are easily available to older people, including those from special needs groups say they are not.⁵⁶⁷

- **Respite costs too much.** Submissions say that the major barrier to residential respite care is its cost to consumers.⁵⁶⁸ This is particularly so for people who must pay rent as well as the cost of respite services.⁵⁶⁹ For a person who has no other income than the pension, finding money for respite is like saving for a holiday.⁵⁷⁰ Carers cannot afford the cost of both.⁵⁷¹ A focus group participant made the decision to go into a hostel while she was there for respite. She says she had to make a very quick decision because of the financial burden of paying respite fees and rent and, as a result, felt she had been forced out of her home.⁵⁷²
- **Too few respite places.** The other significant barrier to people getting residential respite services identified during consultations and in submissions is the lack of respite places,⁵⁷³ particularly in nursing homes where there are often long waiting lists for permanent care.⁵⁷⁴ One carer told the Commission that to get nursing home respite in a facility with two respite places she had to book two months ahead.⁵⁷⁵ On the other hand, service providers say that respite places are often not used because people do not know they are available.

- ***Problems getting emergency or short term respite*** . People say it is extremely difficult, if not impossible, to get respite care in an emergency.⁵⁷⁶ This is usually when it is most needed, for example, if a carer suddenly becomes ill.⁵⁷⁷ People needing emergency respite may end up in hospital instead.⁵⁷⁸ Emergency respite in a nursing home is not available because pre-booking is required and short stays are impossible.⁵⁷⁹ Short term respite, which many carers would prefer, is hard to get. Nursing homes are reluctant to offer respite for less than the maximum of 63 days a year because of the workload involved.⁵⁸⁰ Most residential services accept bookings only on a weekly basis. Some accept shorter term bookings, but charge the client for the full week.⁵⁸¹ One submission says

people often feel unsure of their right to use services and seek to be independent until a crisis or emergency occurs. They then have difficulty accessing emergency respite.⁵⁸²

One carer told the Commission she needed help at night, not during the day, but could not get it then.⁵⁸³ Often an Assessment Team cannot be contacted overnight or at the weekend to do the necessary assessment.⁵⁸⁴

- ***Negative image of residential care and shortage of community respite services.*** Many people do not use residential respite services because they have a negative image of residential services, particularly nursing homes.⁵⁸⁵ People fear they will become a permanent resident, that their home may be sold while they are away⁵⁸⁶ or the service may discriminate against them because they are only there temporarily.⁵⁸⁷ Residential respite services are usually too big and too busy.⁵⁸⁸ At the same time there are insufficient respite services provided to people in their homes.⁵⁸⁹
- ***Poor promotion of respite services*** . Respite services are poorly promoted and not well known in the community.⁵⁹⁰ The Older Women's Network says

One of the main barriers to the use of services is still the low level of awareness about the existence of such services and how to access them. In this so-called information age we find it appalling that people are still not getting access to the information they need when they need it.⁵⁹¹

There is no service to advise on existing vacancies. People have to work their way through the telephone book or rely on word of mouth.⁵⁹²

7.16 People with special needs face particular problems. People from special needs groups, including carers and people with dementia, face particular problems in accessing respite services which meet their needs.

- ***People living in rural and remote areas.*** Getting respite services in rural and remote areas is very difficult.⁵⁹³ One submission says that respite services in remote areas are non-existent.⁵⁹⁴ People living in rural or remote areas who have dementia⁵⁹⁵ or come from non-English speaking backgrounds⁵⁹⁶ are particularly disadvantaged. One major barrier faced is transport costs and the fact that primary carers must travel long distances to get services.⁵⁹⁷
- ***People from Aboriginal communities.*** The needs of people from Aboriginal and Torres Strait Islander communities are not being met⁵⁹⁸ because, among other reasons, there are very few culturally appropriate respite services for them.⁵⁹⁹ Many Aboriginal people see nursing homes as 'finishing places' or places where people go to die.⁶⁰⁰ Transport costs are prohibitive and when the person gets to town he or she might want to go home anyway.⁶⁰¹
- ***People from non-English speaking backgrounds*** . People from non-English speaking background communities have difficulty accessing services or do not use them because they are culturally inappropriate.⁶⁰² Language is one significant barrier⁶⁰³ and information another.⁶⁰⁴ The concept of respite is alien to some communities:

in Malta people feel that children of aged parents are duty bound to look after them in their own home ... Concepts, such as respite care, are foreign to them.⁶⁰⁵

- ***People with dementia.*** People with dementia have real difficulties accessing respite services, even though their carers often desperately need time off.⁶⁰⁶ Waiting lists can be very long⁶⁰⁷ especially for facilities with secure areas. Often carers choose not to use residential respite services because of the

disruptive impact they have on people with dementia.⁶⁰⁸ Centre based, short-term or overnight care, which might be more appropriate than respite for longer periods, is difficult to get.⁶⁰⁹ Some services are reluctant to take people with dementia who have behavioural problems because the transfer may worsen symptoms⁶¹⁰ and because they lack trained staff⁶¹¹ and secure facilities to prevent people with dementia from wandering.⁶¹²

7.17 Problems faced by carers . Carers sometimes face resentment when the person they care for returns home from a period of respite care.⁶¹³ One submission says

The cared for person, resentful of the experience they have had in 'hospital' while the carer is 'holidaying' sets about ensuring that it never happens again.⁶¹⁴

The persons being cared for may be a greater burden on their return because they have become used to more constant care and their routine has been disrupted yet again.⁶¹⁵ Some carers do not make use of respite services because of guilt.⁶¹⁶

7.18 Problems facing services. All submissions that responded to the question about whether nursing homes and hostels are reluctant to provide respite services say that they are.⁶¹⁷

- **Permanent places more viable** . The most commonly identified reason why services are reluctant to provide respite is that the level of funding.⁶¹⁸ Services, especially nursing homes, take a financial risk with respite because they may end up with empty places.⁶¹⁹ One submission says

early discharge of a respite resident in our respite care means it is usually impossible to fill the vacant bed for a few days. Averaging out, we probably break even, but we certainly do not receive any financial benefit for the [nursing home respite] service.⁶²⁰

While providing respite places in hostels is a condition of approval, operators are said to be reluctant to do so because it ties up at least one hostel place which is not likely to be as used as often.⁶²¹ People sometimes book and then do not show up.⁶²²

- **Administrative burden.** The administrative burden associated with providing respite services is said to be another barrier.⁶²³ The level of extra funding does not make this worthwhile.⁶²⁴ One submission says the nursing home subsidy of \$17 a day

does not in any way, compensate the home for the additional workload in the administration, the cleaning and the care of residents ... The time to do the globals, the PCAIs, the time to settle in the residents ... and then they leave after 2 or 3 days and you're left with an empty bed ...⁶²⁵

Providing respite services involves extra work⁶²⁶ and services do not have enough staff to do the work.⁶²⁷

- **Respite places used for clients wanting a permanent place** . Some services which have extensive waiting lists for permanent residents are said to use respite places for those waiting for a permanent place.⁶²⁸ One submission says there is also a 'perception that a carer who brings their caree for respite care may refuse to take back the caree. As the caree is already situated in a nursing home environment this can give rise to a dispute.'⁶²⁹
- **Respite creates a disturbance.** Providing respite can create disruption in residential services.⁶³⁰ It creates difficulties and instability.⁶³¹ It is disturbing for other permanent residents.⁶³² Respite residents 'often experience difficulty in settling due to their problems, uncertainty about their future and ... lack of family support.'⁶³³

What submissions say about improving the respite system

7.19 Provide more funding. Many submissions that responded to the question about how the respite system can work better say that the program needs to devote more funding to the respite program to make it more attractive to service providers and more affordable to consumers.

- ***Make respite more affordable.*** It is important that respite care is affordable.⁶³⁴ Submissions suggest ways this can be achieved. Suggestions include making direct payments to individuals,⁶³⁵ or subsidising the cost of respite or providing free respite to consumers on a means tested basis.⁶³⁶ Examples include
 - a special, one off payment by the Department of Social Security to meet extra costs, for example, to cover a person's rent while they have respite⁶³⁷
 - a similar scheme to that offered by the Department of Veterans Affairs which pays eligible veterans for one month's respite a year⁶³⁸
 - allocating a proportion of respite care places to people who are financially disadvantaged⁶³⁹
 - making the Social Security system more responsive so that people who begin to get respite services part way through a pension fortnight can have their pension reimbursed.⁶⁴⁰
- ***Make respite more attractive to services.*** Services should get greater financial incentives to provide respite services.⁶⁴¹ More money should be allocated to cater for additional staff⁶⁴² and to provide services for special needs groups.⁶⁴³ Some submissions support increased subsidies and resident fees.⁶⁴⁴ Suggestions for modifying the current funding model include
 - funding periods where respite places are vacant⁶⁴⁵
 - compensating nursing homes for maintaining designated respite places, on a similar model to that used in hostels⁶⁴⁶
 - paying supplementary funding to hostels on a case by case basis to enable people who are financially disadvantaged to get residential respite care.⁶⁴⁷

7.20 *Make more places available and dedicate them as respite places.* Many submissions say how important respite is for the community as a whole.⁶⁴⁸ One submission says

respite care is a 'key service' ... which really needs a good definition and program focus in itself. The problem is it tends to be seen as an empty bed sort of phenomenon ... there is a whole different approach to respite care in the administration and management and resourcing so we would like to see that spelt out.⁶⁴⁹

Submissions say there should be more respite places made available in residential and HACC services.⁶⁵⁰ These places should be permanently set aside as respite places.⁶⁵¹ For example, nursing homes should be required by legislation to make a certain number of respite places available.⁶⁵² One submission suggests that if Assessment Teams contracted with nursing homes for a definite number of respite bed days occupancy problems would be overcome.⁶⁵³

7.21 *Deliver respite more flexibly.* Submissions show considerable support for more flexible and innovative ways of providing respite services.⁶⁵⁴ They favour a system which provides consumers with a wide range of choices including home, day, evening, overnight or weekend respite services.⁶⁵⁵ Submissions suggest ways to deliver respite more flexibly. These include

- long day respite to enable carers in paid employment to remain so⁶⁵⁶
- centre based respite, because, as one carer says, 'if I have someone in my home it doesn't feel like a break and I feel like I should help'⁶⁵⁷
- paying next door neighbours to provide respite care⁶⁵⁸ or financing the holidays of carers⁶⁵⁹
- allowing the industry to provide short term respite to clients at home,⁶⁶⁰ particularly in a crisis situation⁶⁶¹
- using hospital beds for respite in rural areas⁶⁶²

- allowing services to provide respite using funding from different sources, for example, from HACC and residential aged care programs⁶⁶³
- funding 'reverse respite' services in Aboriginal communities to enable people living in residential care to return to their communities for a break, a holiday or to die⁶⁶⁴ as well as funding the direct delivery of respite services in these communities.⁶⁶⁵

7.22 *Provide more emergency, overnight or short term respite and dedicated facilities.* Submissions favour having more emergency or short term respite.⁶⁶⁶ There is a high level of need for overnight respite in, or attached to, day care centres⁶⁶⁷ and increased services in evenings, weekends, overnight or for a few days at a time.⁶⁶⁸ Some submissions favour having residential facilities dedicated to providing respite services.⁶⁶⁹ These could provide short term and long term respite as well as emergency respite, day and night.⁶⁷⁰

7.23 *Establish centralised booking services.* Some submissions suggest there should be a centralised respite booking service that is properly funded and staffed.⁶⁷¹ A register would allow nursing home respite places to be more fully occupied and therefore make them more financially viable.⁶⁷² It would also help families find the services they need.⁶⁷³

7.24 *Better information and training.* Submissions say there is a need to provide information to older people, their carers and service providers about respite services.⁶⁷⁴ Residential care staff also need appropriate training and support.⁶⁷⁵

7.25 *Better respite services for people with dementia and their carers.* Submissions suggest a number of ways to improve respite services for people with dementia. These include

- providing more funding for upgrading or building dementia specific facilities which have respite places⁶⁷⁶
- establishing dementia specific hostels with different funding entitlements⁶⁷⁷ and specific purpose units in nursing homes which provide respite care⁶⁷⁸
- in home or centre based services which can also offer overnight care,⁶⁷⁹ because residential respite services may be too upsetting for older people with dementia⁶⁸⁰
- appropriate education and training for residential care staff.⁶⁸¹

The Commission's recommendation

7.26 The Commission was struck by the serious concerns the community has about the existing Commonwealth aged care respite program. A consistent theme expressed during consultations and in submissions is that people cannot easily access respite services when and where they need them and have trouble affording services. Current figures show a significant under use of residential respite care services.⁶⁸² Respite is a crucial service for carers and older people. Our community relies heavily on the unpaid work of carers. The Commonwealth should ensure that these carers have the opportunity to get a break from their work when they want and need one. It should ensure that the community has a mix of respite options to ensure that people's various needs can be met. Respite should be as simple to administer and affordable as possible. It should be equally available to all people, including those in rural or remote areas. The Commission notes the recommendation of the National Council for the International Year of the Family in its report, *Creating the Links: Families and Social Responsibility*, that the affordability of respite care services be addressed through the introduction of a program of assistance to offset fees, modelled on the system of childcare assistance.⁶⁸³ **The Commission recommends that the Commonwealth review its institutional and community based respite schemes to ensure that**

- consumers have the opportunity to choose from a range of more flexible services which meet their needs and which might include, for example, a mix of residential, in home services and dedicated respite services

- **people seeking respite services have help to do so, for example, through centralised respite care booking services**
- **residential services are adequately compensated for the costs of providing respite services and administrative requirements are not so onerous that they deter services from providing respite services**
- **consumers have access to respite services in an emergency and for shorter, more frequent breaks**
- **people from special needs groups and people with dementia are not disadvantaged in getting access to respite services and have their needs met in the delivery of these services**
- **people from Aboriginal and Torres Strait Islander communities have access to flexible and culturally appropriate models of respite care, for example 'reverse respite'**
- **consumers are informed about the range of available respite services and how to access them.**

8. Domiciliary nursing care benefit

Introduction

8.1 The Commonwealth makes fortnightly payments to people who care in the home for older people needing a similar level of care as provided in a nursing home. The benefit is called the domiciliary nursing care benefit (DNCB). It is one way that the Commonwealth supports the carers of older people. This chapter discusses DNCB.

- It describes DNCB and makes a recommendation that DNCB should be called the 'Carer's support allowance' in the new legislation (para 8.2-3).
- It outlines the eligibility criteria for the benefit, reports what submissions say about them and makes a number of recommendations, including that the Commonwealth review the policy focus of DNCB (para 8.4-11).
- It sets out what submissions say about people's lack of awareness of DNCB and makes a recommendation that the Department of Human Services and Health (the Department) should actively promote DNCB (para 8.12-14).
- It discusses what submissions say about Aboriginal and Torres Strait Islander people's access to DNCB and makes a recommendation about this (para 8.15-16).
- It sets out what submissions say about the assessment process for DNCB and makes a recommendation (para 8.17-20).
- It recommends that the legislation clearly set out the obligations attached to approval for DNCB and that decisions about DNCB should be reviewable by the Administrative Appeals Tribunal (AAT) (para 8.21-25).
- It sets out what submissions say about the amount of DNCB and states the Commission's view on this (para 8.26-28).

Should the DNCB be called something else?

What is the DNCB?

8.2 DNCB is a fortnightly benefit paid by the Commonwealth to approved carers of frail older people living at home. It is also paid to approved carers of people with a disability. The person with a disability must be over the age of 16. It is financial recognition of the contribution made by carers, although it is not intended to reimburse carers for the full costs of the care they provide. It is now set at \$54.20 a fortnight and is indexed annually. The benefit is not means tested and is tax free.

The DNCB should be called the 'carer's support allowance'

8.3 The 'domiciliary nursing care benefit' is an archaic name. In the Commission's view it should be changed to something simpler and easier to understand. This is consistent with the Commission's concern that the new legislation should not include terminology that cannot be easily understood. After considering a number of alternatives the Commission concluded that the 'carer's support allowance' is an appropriate name for the benefit. It clearly describes the payment. It is different enough from the 'Carer's Pension' to be distinguishable from the pension administered by the Commonwealth Department of Social Security (the DSS). **The Commission recommends that the domiciliary nursing care benefit (DNCB) should be called the 'carer's support allowance' in the new legislation.**

Are the eligibility criteria appropriate?

Existing eligibility criteria

8.4 To receive DNCB a carer must be approved by the Department as eligible to receive it. For DNCB to be paid

- the person being cared for must be 16 years or older and require the same type of nursing care as is provided in a nursing home (this must be certified by a medical practitioner)
- the carer and the person being cared for must live in the same home
- the carer must be providing care on a continuing full-time basis (although the carer may take 42 days off a year and short periods off during the day while another person provides care)
- the nursing care provided must be of an adequate standard (this must be certified by a registered nurse).

Only one carer of a person can be paid at any one time. A carer can be approved to provide care to no more than two people. DNCB is not paid where the care is provided in an institution where nursing care is provided and where this care is funded solely or partly by the Commonwealth or a State or Territory. For example, it is not paid for care provided in a hospital or nursing home. DNCB can be paid if the person cared for receives a Care Package or Home and Community Care (HACC) services. These services are taken into account by the nurse when assessing whether the care recipient is receiving an adequate level of care.

The discussion paper

8.5 In its discussion paper the Commission asks if all the carers of people at home needing a nursing home level of care receive DNCB and, if they are not, why not. It also asks how the new legislation might ensure that all people who should receive DNCB do so.

What submissions say

8.6 During consultations and in submissions the Commission was told of various problems people have in meeting the current criteria to get DNCB. Some submissions support a wholesale review of the policy basis for DNCB.⁶⁸⁴ Concerns expressed include the following.

- ***Nursing home level of care requirement too strict.*** Some submissions say that DNCB is much harder to get than it used to be.⁶⁸⁵ The care recipient must require the level of care a person needs to enter a nursing home. A person has to be much sicker now than in the past to get approved for nursing home care. For this reason submissions say that the nursing home level of care requirement is now too onerous and inappropriate.⁶⁸⁶

I question the appropriateness of a tool which attempts to draw comparisons between the very different environments of a nursing home and an individual's home. How can the workload of an aging, primary carer be compared to that of trained, medically fit staff who work 8 hour shifts?⁶⁸⁷

The Carers Association of NSW says that the amount of care provided rather than the nature of the care should be the criteria for eligibility.⁶⁸⁸ Some submissions say it would be fairer to link the benefit to a hostel level of care instead.⁶⁸⁹

- ***Carers of people with dementia and others are missing out.*** During consultations and in submissions the Commission was told that requiring that the care recipient need a nursing home level of care means that the carers of people with dementia may not get DNCB. People with dementia may not need 'nursing care'. Many people with dementia do, however, need constant care and supervision which is a physically and emotionally exhausting job.⁶⁹⁰ This is true of other older people who need ongoing care but not at the nursing home level.⁶⁹¹

- ***Living in the same home test is too strict.*** The carer and the care recipient must live together in the same home. In practice the Department sometimes waives this requirement where, for example, the person being cared for lives in a 'granny flat'. Submissions say this requirement is too strict.⁶⁹² They say it discriminates against people who rely on extended family or other networks for care.⁶⁹³ It also discriminates against carers who, while they do not live in the same house as the people they care for, provide care which satisfies the other eligibility requirements.⁶⁹⁴
- ***Too much red tape.*** Submissions say that the rules carers must comply with to get the benefit are too strict and are unrealistic.⁶⁹⁵

Many people will not apply [for the benefit] because of all the red tape. For example, a carer is not free to go out, even for short periods of time unless someone is available to stay with the person needing care. This is creating an impossible situation for many people who have to stay within the guidelines of eligibility to receive \$53.20 per fortnight.⁶⁹⁶

Assessing and monitoring eligibility for DNCB is said to be invasive and expensive.⁶⁹⁷ One submission notes that carers getting DNCB can only take 42 days off a year without penalty, but

Australian workforce employees have two days off for every five worked, on an average 7.5 hours day. To prevent overload and burnout, carers should not be penalised if they have time out equivalent to the normal working week of two days per week, i.e. 104 days per year.⁶⁹⁸

There have been significant changes since DNCB was introduced

8.7 In 1973, when DNCB was first introduced, it was designed to allow older people to be cared for by relatives at home, with the assistance of professional care services. It was intended to reduce the demand on nursing home beds.⁶⁹⁹ At that time there were effectively only two options for nursing care - entering a nursing home or care provided by families. Since then the way the benefit operates has changed: for example, the payment has been increased and indexed, a nurse no longer has to attend every day and carers are now entitled to have a break for 42 days every year. There have also been significant changes in community attitudes towards the role of the family, particularly of women, in providing care and in community expectations of government to provide aged care, disability and income support policy and programs.

The Commission's recommendations

8.8 ***Review the policy focus of the benefit.*** There are three policy objectives in providing the benefit. These are

- to provide financial 'recognition' of the work carers do
- to ensure an adequate level of care for people requiring nursing care at home
- to promote care in the community and to minimise the number of people entering nursing homes.

It is not clear which of these is or should be the primary focus of the benefit. It is unclear whether the benefit is designed to support carers, care recipients or home based care. The Commission recognises that the benefit is an entitlement payment which is necessarily targeted and should remain so. It acknowledges that any broadening of the current eligibility criteria has resource implications for the Commonwealth. Nevertheless it is the Commission's view that the Commonwealth should review the policy focus of the benefit. This review should be directed to ensuring that

- carers are appropriately recognised for the work that they do
- regard is had to social justice and access and equity principles
- the eligibility criteria are simple to understand and capable of being applied consistently
- the benefit is as straightforward to administer as possible.

The review should consider whether the policy objectives of DNCB are still relevant and whether DNCB is meeting its original purpose of keeping people out of nursing homes. **The Commission recommends that the Commonwealth review and clarify the current policy focus of DNCB.**

8.9 *Review eligibility requirements and the assessment instrument.* The current tests for DNCB link eligibility with a nursing home level of care. The assessment instrument, which is used to decide if the person being cared for meets the relevant eligibility requirements, focuses primarily on the level of nursing care the person requires and his or her physical dependency. It does not adequately assess other kinds of dependency and the person's need for other types of care, for example, domestic or personal care. These other matters can have a significant bearing on the load carried by the carer. Older people with conditions such as dementia or progressive neurological illnesses, for example, may be highly dependent on their carer in many ways but the carers may not be eligible for the benefit because they do not provide nursing care. In the Commission's view the assessment criteria should be reviewed to include broader tests of dependency than they do now. They should take into account the level of supervision necessary to ensure that a person does not harm himself or herself or others. The assessment instrument should consider matters relevant to the level of domestic or personal care required, in addition to issues relating to a person's medical status and physical dependency. Adopting these changes will require the Department to develop new eligibility criteria, a new assessment instrument and assessment guidelines. It will require breaking the link which now exists between the benefit and a nursing home level of care. This will ensure that the eligibility criteria do not change just because there are changes in residential care policy. **The Commission recommends that, as part of the review of the policy focus of the benefit, the Commonwealth should examine the eligibility requirements for DNCB and consider whether they should take into account broader tests of dependency than they do now. The assessment instrument for DNCB should be reviewed to consider whether it should measure other matters bearing on the level of domestic or personal care required by the person being cared for, as well as the person's medical status and physical dependency.**

8.10 *Focus on adequacy of care when assessing living arrangements.* The current legislative requirement that the carer and the care recipient must live together in the same home creates problems. The presumption behind this test is that adequate care can only be provided if the two parties live together within the same four walls and that this reduces the likelihood that the care recipient will be exposed to unsafe care arrangements. In some cases a discretion may be exercised to approve payment where the test is not strictly met, for example, where the older person lives in a flat in the same building as the carer or next door to the carer. The test has the potential to discriminate against members of communities who rely on extended family or other networks for the care of their older people. Some people may not have housing at all. The Commission's view is that the new legislation should not include the current test of living in the same house. Instead, living arrangements should be one of the matters to be considered when assessing whether the care provided is 'adequate'. Revised assessment guidelines should give special guidance on what living arrangements may be suitable to ensure that the care is adequate. They should take into account cultural differences that may be relevant to assessing these matters. **The Commission recommends that the new legislation should not include the current test that the carer and care recipient must live in the same home. Instead, living arrangements should be one consideration when assessing whether the care provided is 'adequate'.**

8.11 *Allow approval to provide care to more than two people.* One of the current eligibility criteria is that a carer cannot be approved to provide care for more than two people. The test is based on the assumption that adequate care cannot be provided if one person looks after more than two people. This may not necessarily be the case. The test has the potential to discriminate against people caring for more than two people but who can satisfy other eligibility requirements, for example, an older woman providing adequate care to her husband and two children with a disability. **The Commission recommends that the new legislation focus on whether the care being provided to the care recipient is adequate. The current legislative provision which says a carer can be approved to provide care to no more than two people should not be included.**

People do not know about DNCB

Current strategies to promote DNCB

8.12 The Department promotes the DNCB in a number of ways. There is a brochure about DNCB in four community languages. There is a pamphlet for GPs. After changes were made to DNCB in the 1992-93 Budget there was more promotion of DNCB than before. The program is developing strategies to target information to people of non-English backgrounds and people from Aboriginal and Torres Strait Islander communities. The department says that DSS officers administering the Carers' Pension tell clients about DNCB and DSS offices carry the DNCB application form. 'Carer Support Kits' produced by the program also include information about DNCB.

What submissions say

8.13 In consultations and submissions the Commission was told that one of the main reasons people who should be getting DNCB do not is that they do not know it exists.⁷⁰⁰ This is especially the case for people of non-English speaking backgrounds and people from Aboriginal or Torres Strait Islander communities.⁷⁰¹ Submissions say that DNCB is not well enough promoted;⁷⁰² doctors and other health professionals are often unfamiliar with the benefit and do not know what is required for a person to get it and that people do not think that the Department pays cash allowances. Submissions suggest various ways that material might be distributed: by the Departments of Social Security (including DSS newsletters) and Veterans Affairs, by GPs, local councils and the media generally.⁷⁰³

The Commission's recommendation

8.14 The Commission acknowledges that the Department has recently increased efforts to promote DNCB. In the Commission's view, however, DNCB should be better promoted by the Department, especially to people from special needs groups. Consultations and submissions reveal that this is a major barrier to people getting it. The need to provide better information on aged care services funded by the Department is discussed in more detail in chapter 11. DNCB needs to be promoted in a way which is appropriate for the target group. For example, an information strategy for Aboriginal communities would be best generated by or developed in collaboration with Aboriginal people. Getting information across to carers is difficult. One obvious publicity point is the DSS. **The Commission recommends that the Department should actively promote DNCB, particularly to special needs groups.** At the very least it should make an arrangement with the DSS that it provides material about DNCB to all its clients who inquire about the Carer's Pension.

Barriers to people from Aboriginal and Torres Strait Islander communities getting DNCB

What submissions say

8.15 The Commission was told during consultations and in submissions that people from Aboriginal and Torres Strait Islander communities face special barriers to getting DNCB. The Central Australian Advocacy Service says that some Aboriginal people fear that being assessed for DNCB will put them at risk of being taken to a nursing home.⁷⁰⁴ The South Australian Aged Care Rights Advocacy Service reports that it does not know of any Aboriginal or Torres Strait Islander people getting DNCB.⁷⁰⁵ In its consultations in the Northern Territory and in submissions the Commission was told that non-Aboriginal health professionals may make inappropriate value judgments about the lifestyle of people from Aboriginal and Torres Strait Islander communities in assessing eligibility for DNCB. For example, Aboriginal and Torres Strait Islander people who may have 'different priorities in relation to care, such as remaining in one's country with family' may not get DNCB because of a non-Aboriginal assessment of what is adequate or appropriate care.⁷⁰⁶ For these reasons some say it is more appropriate for an Aboriginal health worker to do the assessment.⁷⁰⁷

The Commission's recommendation

8.16 It is extremely important that older people from Aboriginal and Torres Strait Islander communities are able if they wish, to stay in their own community and die with their own people on their own land. DNCB is

one way of helping to make this possible. In the Commission's view people from Aboriginal and Torres Strait Islander communities should not be prevented from getting DNCB because they cannot meet assessment criteria that are based on a non-Aboriginal model of what is 'adequate care' or because the assessment is done by people who may not be familiar with the needs of the individuals concerned and sensitive to the needs of the particular community and Aboriginal and Torres Strait Islander people in general. The Commission considers whether the new legislation should allow Aboriginal health workers to assess people for DNCB in paragraph 8.20. **The Commission recommends that the particular needs of people in Aboriginal and Torres Strait Islander communities should be considered by both health workers assessing, and the Department in approving, DNCB. The requirement to consider the special needs of people from Aboriginal and Torres Strait Islander communities should be clearly set out in revised assessment guidelines.**

Who should perform the assessment?

Current assessment requirements

8.17 The current system of assessment requires that

- a doctor must certify that the person being cared for needs nursing care and
- a registered nurse must certify that the nursing care is 'adequate'.

The discussion paper asks if Assessment Teams should assess people for DNCB instead of a doctor and nurse. This would give the care recipient and the carer access to the information, support, advice and referral services that Assessment Teams provide.

What submissions say

8.18 **Assessment by Assessment Teams should not be compulsory.** The Commission heard mixed views on whether Assessment Teams should assess for DNCB.⁷⁰⁸ Some submissions agree with the discussion paper that there would be real benefits in giving people access to Assessment Teams.⁷⁰⁹ One submission that does not support the proposal nevertheless agrees that there is an important role for Assessment Teams and GPs in providing information.⁷¹⁰ A number of submissions warn, however, that if Assessment Teams were to assess all candidates for the DNCB they would need more resources as many teams are already under resourced.⁷¹¹ Submissions that do not agree with having Assessment Teams do the assessment for DNCB say that it would be too inflexible⁷¹² and, in areas where there is not easy access to Assessment Teams, too difficult.⁷¹³ Some submissions suggest that assessment by Assessment Teams should be an option for people applying for DNCB, but not a requirement.⁷¹⁴

8.19 **Widen the choices as to who can perform the assessment.** Some submissions say that what is really needed in the assessment process is to widen the assessment options.⁷¹⁵ Requiring both a doctor and a nurse can cause problems, particularly in rural or remote areas⁷¹⁶ and in Aboriginal and Torres Strait Islander communities where there may be a shortage of medical professionals.⁷¹⁷ Others submissions say that a range of people or bodies such as Assessment Teams, visiting medical officers, home help assessors⁷¹⁸ or community health workers⁷¹⁹ should be able to do assessments.

The Commission's recommendation

8.20 Although there are considerable benefits in requiring that people are assessed by an Assessment Team to get DNCB the Commission considers that it should not be a mandatory requirement that Assessment Teams perform the assessment. It is not always easy for people to get access to an Assessment Team. They are not adequately resourced to assess people for DNCB in addition to their other duties. In the Commission's view, however, the strict requirement that assessment be done by a doctor and a nurse should be relaxed. When DNCB was first introduced, doctors assessed older people for nursing home care and it made sense that they should also assess people for DNCB. This is no longer the case. Having doctors assess need reflects an outdated view that being old and frail is an illness. Getting access to both a doctor and a nurse can be difficult, especially in rural and remote areas. In Aboriginal communities, an Aboriginal health

worker may be a more appropriate person to do the assessment. Aboriginal health workers are more likely to be familiar with the community and people concerned and to be more sensitive to the cultural issues surrounding what is 'adequate' care. The Commission recognises that including Assessment Teams as possible assessment bodies has implications for the resourcing of Assessment Teams and will require negotiation between the Commonwealth and State and Territory governments. **The Commission recommends that the class of people who can assess people for DNCB should be widened to include Assessment Teams, community health workers and Aboriginal health workers. Assessment should be able to be done either by an Assessment Team or by any two of the following: a doctor, a nurse, a community health worker or an Aboriginal health worker.**

Review of decisions about DNCB

Existing law and practice

8.21 A carer whose application for DNCB is rejected can apply to the Minister for the decision to be reviewed. The current legislation does not provide for Ministerial review of any other decision in relation to DNCB, such as the decision to revoke approval for the benefit or to recover overpayments from the carer by deducting them from the next pay period. In practice, however, the Department will reconsider any decision in relation to DNCB if requested. No decisions in relation to DNCB are currently reviewable to the Administrative Appeals Tribunal (AAT).

Discussion paper

8.22 In its discussion paper the Commission proposes that decisions made by the Secretary of the Department not to approve a person for DNCB, to revoke approval or to recover overpayments should be reviewable first by the Minister and then by the AAT. It also says that the legislation should promote practices that avoid the need for review in the first place. It proposes, among other things, that the legislation should require that the notice telling a carer that he or she has been approved should set out any obligations that accompany the approval and the circumstances in which the approval may be revoked.

What submissions say

8.23 All submissions about review of decisions relating to DNCB, except one,⁷²⁰ favour review by the AAT.⁷²¹

The Commission's recommendations

8.24 ***Ensuring carers know their obligations.*** A carer who is approved to get DNCB has certain obligations. A carer must notify the Department if he or she stops providing care or if the person being cared for dies. Approval for DNCB can be revoked in specified circumstances. There are serious consequences for the carer if he or she does not comply with the obligations attaching to DNCB. The obligations and the circumstances in which DNCB can be revoked should be set out in the legislation and clearly communicated to the carer. The legislation should require the Department to notify the carer of his or her approval in writing. The instrument of approval should set out the starting date for payment of DNCB, the period of approval and any associated review mechanisms, the recipient's obligations and in what circumstances approval can be revoked. **The Commission recommends that the legislation clearly set out the obligations attached to approval for DNCB and in what circumstances approval can be revoked.**

8.25 ***Decisions about DNCB should be reviewable by the AAT.*** The decisions not to approve a person for DNCB, to revoke approval or to recover overpayments are decisions that have a direct impact on older people and their carers. They directly affect the interests of the carer. They are decisions that, in the Commission's view, should be subject to review by the Minister and then by the AAT. This is consistent with the recommendations of the Administrative Review Council in its recent report, *Administrative Review and Funding Programs*.⁷²² **The Commission recommends that the decisions to not grant approval to a carer for DNCB, to revoke approval and to recover overpayments should be reviewable by the AAT.**

Concern about the rate of DNCB

How much is DNCB?

8.26 The amount of DNCB paid to carers is now \$54.20 a fortnight. This amount is indexed annually.

What submissions say

8.27 In consultations and in submissions many people complained that the amount paid is far too low and an 'insult' to carers.⁷²³

I do not believe that love and care can really be bought; however \$53.20 per fortnight is a mere pittance, totally out of touch with 1994 cost of living.⁷²⁴

One submission says DNCB is a very poor substitute for a worker's salary even though many people give up full time work to care for a frail or disabled relative.⁷²⁵ The Commission was told that the amount of DNCB is so low and DNCB is so hard to get that some people do not even bother to apply.⁷²⁶ Many people believe the Government should increase the level of DNCB. They say this will give greater recognition to the enormous job carers do in our community. People highlight the significant amount of money the Commonwealth puts into funding aged care services.⁷²⁷ They comment that the work of carers saves the Commonwealth money because the older people they care for do not have to rely on more expensive community or residential care.⁷²⁸

The Commission's view

8.28 When DNCB was introduced the payment represented 30% of the average weekly nursing home benefit and 57% of the sum of the single aged pension and the Social Security supplementary allowance. Although DNCB has been increased and indexed since that time, its value has fallen to 5% of the average weekly subsidy for nursing home care and 16.5% of the single aged pension.⁷²⁹ Past Commonwealth government reviews have recommended replacing DNCB with a more targeted, indexed, means-tested Carer Support Payment⁷³⁰ and increasing the amount paid.⁷³¹ It is beyond the Commission's terms of reference to recommend increasing the level of allowance paid to carers. Clearly this is a matter of Commonwealth policy. The Commission acknowledges that the fall in value of the benefit has been accompanied by an increase in the provision of community based aged care services and income support for aged pensioners. It also appreciates that any increase in the benefit may have resource implications for the Commonwealth. However the Commission was struck by the consistency of comments made by people during Australia wide consultations and in submissions that DNCB is not enough and should be increased. The Commission's view is that the Commonwealth should review the rate of DNCB in the context of its review of the policy focus of the benefit.

PART III - QUALITY CARE AND USER RIGHTS

9. Promoting quality aged care services

Introduction

9.1 The Aged Care program (the program) seeks to ensure that the aged care services the Commonwealth funds are of a high quality and meet specified standards. This complements the program's user rights strategies. This chapter examines how the Commonwealth promotes quality aged care services.

- It outlines how Commonwealth, State and Territory governments promote quality aged care services (para 9.2-10).
- It sets out what submissions say are problems with the standards monitoring process and makes a recommendation about this (para 9.11-16).
- It describes what submissions say about the distribution of standards monitoring statements and about action plans which are attached to standards monitoring statements and makes recommendations about these matters (para 9.17-28).
- It explains what submissions say about the duplication resulting from regulation of aged care services by Commonwealth, State and Territory governments and makes a recommendation about this (para 9.29-33).
- It examines what submissions say about whether Standards Review Panels should be kept in the new legislation and makes a recommendation about this (para 9.34-38).

Existing law and practice

Commonwealth regulation - residential care

9.2 **Residential care standards.** Hostels and nursing homes must meet pre-determined standards of care (called outcome standards) as a condition of recurrent funding. There is one set of standards for nursing homes and another for hostels. The standards cover similar aspects of care and well being such as 'health care', 'social independence', 'freedom of choice', 'homelike environment', 'privacy and dignity', 'variety of experience' and 'safety'. The Department of Human Services and Health (the Department) is developing a set of outcome standards covering these aspects which will be the same for both nursing homes and hostels. These standards are currently being trialled as part of the nursing homes option pilot.⁷³² The Department will then consult about the new standards with industry and consumer groups.

9.3 **Standards monitoring.** The Department sends teams of officers called Standards Monitoring Teams to check that services are meeting outcome standards. Teams usually tell a service in advance when they are going to visit. During the visit team members talk to residents, resident groups, relatives and staff. They also look at what happens in the service and may inspect documents. Generally speaking, the Department sends a Standards Monitoring Team to each service every two years. The program is now piloting a 'quality assurance' strategy for nursing homes in all States and Territories.⁷³³ If this is adopted generally, Standards Monitoring Teams will visit some services more often (for example, those at risk of not meeting standards) and others less often (for example, those who have a good record of meeting standards). The program will also monitor a random selection of services. The Department commissioned consultants to evaluate the effectiveness of the standards monitoring process. The report of this evaluation was released in early 1993 (the Braithwaite report).⁷³⁴ The program informs the Commission that most of the recommendations in this report that it considered were possible to implement within the current policy framework have been implemented or are in the process of being implemented.

9.4 **Standards monitoring statements.** The legislation provides that the Minister may issue a report or statement after the Standards Monitoring Team completes its inspection.⁷³⁵ The statement sets out the

philosophy behind outcome standards, outlines the steps in the standards monitoring process and states whether or not the service complies with each standard. Where the service has complied with a standard, the statement will rate the service as having 'met' the standard. If a service has not met the standard it will receive a rating of either 'action required' or 'urgent action required'. Standards monitoring statements enable residents to find out if their financial contributions to the service have been well spent and help potential residents and their representatives to choose a service which suits their needs. The legislation now requires the Department to make the statements available in its State and Territory offices. In practice the Department distributes them more widely than this. It sends the statement to the service provider and sometimes to the relevant staff representative, resident committee (if one exists) and State, Territory, local government and non-government agencies. The Minister tables a list of published statements in federal parliament every three months. The Commonwealth parliamentary library holds them. The Department intends to make this information available on the Department's Health CD Rom which will be available at some public libraries. The Department may impose sanctions on a service if it does not meet standards.

9.5 Action plans. If the Department finds that a service has not met standards a service provider can prepare an 'action plan' which the Department may publish with the statement. The Department expects the service to develop a plan for how it will improve standards within a reasonable period of time. The Department continues to monitor standards which have not been met. There is no legal obligation on the service provider to follow its action plan.

Care Packages

9.6 Service standards. It is a condition of funding that organisations providing Care Packages meet service standards. In summary, the standards are concerned with ensuring that Care Package providers

- adequately inform and consult recipients and their representatives
- provide quality services which meet the recipient's care needs
- enable each recipient and his or her representative to participate in developing a package of services that meet his or her needs
- enable and encourage each recipient to exercise his or her preferred level of social independence
- respect the privacy and confidentiality of recipients and give the recipient access to personal information the provider holds about him or her
- give each recipient access to fair and effective procedures for addressing complaints and resolving disputes
- enable each recipient to have access to an advocate of his or her choice.

These standards are intended

- to inform recipients of the care standard they can expect
- to help service providers achieve the highest standard in administration and management
- to provide a basis for the program to investigate complaints and monitor service delivery.

9.7 Review of standards . The Department does not routinely review Care Package providers to see whether they are meeting service standards. However the program can conduct a formal review of the overall performance of the provider against some or all standards, in response to a complaint from a recipient or another interested individual or organisation. It may also conduct a formal review from time to time on its own initiative. When the Department reviews a Care Package provider it may ask for information from or about other people who receive Care Packages from the same organisation. It may do this using questionnaires or telephone calls to staff, recipients and their carers and family, visits to recipients and the

services provider and using document analysis. The Minister can impose sanctions if a Care Provider is in breach of standards.

Flexible service types and pilot projects

9.8 Funding agreements for multi-purpose services include provisions about the objectives a service is to achieve and the principles underlying its operation. Agreements require services to achieve improvement in the quality of care and the quality of life for consumers. Standards monitors work with services to develop specific action plans to meet these goals. The Department will take a similar approach for flexible models being developed as part of the new Aboriginal and Torres Strait Islander strategy. Multi-purpose centres are not formally evaluated (although evaluation is being considered).

State and Territory government regulation

9.9 ***Licensing.*** State and Territory governments also help to ensure quality residential services. The level of their involvement varies. Most commonly, State and Territory legislation is concerned with the physical environment in which aged care services are provided, for example

- the design and construction of residential premises
- fire safety
- facilities and equipment
- staffing
- the fitness of licensees and other operational matters.

New South Wales legislation regulates nursing homes and hostels extensively and includes Commonwealth outcome standards. In Western Australia licence holders must comply with conditions which endorse Commonwealth outcome standards. In South Australia the Minister has a discretion to exempt Commonwealth subsidised aged care facilities from the operation of its legislation if he or she is satisfied that the Commonwealth outcome standards for residents are adequately monitored.⁷³⁶ This exemption can be revoked or varied by the Minister. In the Territories regulation is limited. A number of States, in particular, New South Wales, Victoria and Queensland, have either ceased to regulate Commonwealth funded aged care facilities or have this under consideration.⁷³⁷

9.10 ***Monitoring service quality.*** States and Territories monitor service quality in different ways. As a general rule State and Territory governments contribute fairly limited resources to the monitoring of facilities they regulate.⁷³⁸ While in the past some States and Territories have been involved in joint monitoring visits to services with the Commonwealth this no longer happens. Some States have co-operated with the Commonwealth to take action against service providers who fail to provide adequate care.

Standards monitoring

Submissions identify problems with the standards monitoring process

9.11 ***Introduction.*** The Commission asked very specific questions about distribution of standards monitoring statements in its discussion paper. However in submissions and during consultations the Commission was told of a number of more general concerns about the standards monitoring process. These concerns are set out below. A consistent theme expressed was that the Department should address these more important problems before dealing with the issue of wider distribution of statements.⁷³⁹

9.12 ***Standards monitoring may be too subjective and negative.*** In submissions and during consultations the Commission was told that the monitoring process is too subjective and that Standards Monitoring Teams around Australia appear to have varying interpretations of what is required for a service to be rated as meeting standards.⁷⁴⁰ Other concerns were that Standards Monitoring Teams sometimes lack balance in their

assessments. They may give too much attention to minor detail or too stringent or trivial an interpretation of the standards.⁷⁴¹ As one service explains, 'we may be criticised for having an unmarked [medicine] bottle when we have 50 people with no bedsores'.⁷⁴² One hostel resident reports that, while the residents' committee supports standards monitoring, sometimes teams go overboard: her hostel was asked to take down a list of hairdresser appointments from a notice board even though the residents wanted it up.⁷⁴³ Although positive feedback is considered by the program to be one important part of the standards monitoring process, the Commission was told that services would appreciate praise for the good things that they do as well as the criticisms.⁷⁴⁴

9.13 *Monitoring should be more culturally sensitive.* In submissions and during consultations the Commission was told that the outcome standards monitoring scheme is at present inadequate to evaluate the quality of life of Aboriginal and Torres Strait Islander residents and residents of non-English speaking backgrounds.⁷⁴⁵ They welcome standard 2.4 for nursing homes which refers to providing for differing religious, personal and cultural customs, but say that it is vague and difficult for the nursing homes and Standards Monitoring Teams to assess.⁷⁴⁶ The Commission was also told that problems arise when teams are assessing what is an adequate quality outcome in contexts where different cultural values or practices operate. Quality care for an Aboriginal hostel operating in a remote area may look very different from quality care in a big city hostel and should be assessed on a different basis.⁷⁴⁷ The Commission heard that interpreters are not always available to Standards Monitoring Teams when they visit services which have residents of non-English speaking backgrounds.⁷⁴⁸

9.14 *Other concerns about the monitoring process.* Submissions express the following other concerns about the standards monitoring process.

- Standards should be monitored by better trained, more experienced and qualified staff.⁷⁴⁹
- Standards Monitoring Teams sometimes get a more favourable impression of the standard of care than is justified because services get notice before a standards monitoring visit.⁷⁵⁰
- Visits are not frequent enough.⁷⁵¹
- Sanctions should be applied more often when services fail to meet standards.⁷⁵²
- The move to risk management means 'people do not do what is expected, but they do what is inspected'.⁷⁵³
- The process does not ensure that all people, especially relatives and carers, have the opportunity to comment. An advocacy service reports

nursing homes ... have been known to attempt to provide standard or suggested responses [to relatives] ... We are actually taking action in a number of areas where retribution against relatives is said to have occurred because the relatives have been seen talking to the Standards Monitoring Team.⁷⁵⁴

- There is sometimes inadequate communication between Commonwealth officers approving new premises and Standards Monitoring Teams: a service says that it received approval of its new hostel premises and then a Standards Monitoring Team rated it as not meeting eight outcome standards covering similar matters within two weeks of opening.⁷⁵⁵

The Commission's view

9.15 Most of the general problems with the current outcome standards monitoring process identified during consultations and in submissions are outside the Commission's terms of reference. The Commission considers that standards monitoring plays an important role in improving the quality of care that consumers receive. The Commission was told during consultations that the quality of life and care has improved as a result. This view is supported by the Braithwaite report which also considered and made recommendations about some of the concerns raised by submissions. The Commission's view is that the Department should consider implementing a system of regular self-assessment and reporting by services against the standards.

To be effective it would have to be underpinned by adequate sanctions which can be enforced both by the Department and individuals. It could supplement the quality assurance approach now being implemented.

The Commission's recommendation

9.16 It is Government policy and important for consumers of aged care services that all aged care service types, including non-standard models, have a quality control measure which is effective and appropriate for the needs each service is designed to meet. The Commission is concerned that the current quality control scheme for Care Packages is not as effective as it should be because it relies primarily on consumer complaints to trigger monitoring action. The Commission heard many times during consultations and in submissions that, for a variety of reasons, older people are often reluctant to complain when they are dissatisfied with the services they are receiving.⁷⁵⁶ The Department has some measures which address this reluctance to complain: consumers of Care Packages can discuss their concerns with Care Package co-ordinators and complainants can use a questionnaire if they do not wish to speak directly with a Department complaints officer. In the Commission's view this is not enough. The program should take a more active approach to reviewing Care Package service standards. One model it might consider is the Community Health Accreditation Standards Project model being piloted in Tasmania for Home and Community Care (HACC) services.⁷⁵⁷ The Department has informed the Commission that it intends to review the quality scheme for Care Packages before the end of 1995. **The Commission recommends that 12 months after the publication of this report the Department should have reviewed its standards monitoring procedures for Care Packages to determine whether its procedures are adequate to identify all services that are not meeting standards. If the review finds they are not adequate, the review should determine what procedures will ensure that services not meeting standards can be identified.**

Standards monitoring statements for residential care

Discussion paper

9.17 In its discussion paper the Commission asks whether standards monitoring statements are available widely enough and, if not, how their availability should be increased. It asks whether new legislation should require the Department to distribute them to certain specified places and require a service provider to place its statement in its entrance area. The Commission asks whether at the front of statements the Department should clearly state that an action plan does not bind the service but only indicates an intention to meet the standards in the future.

What submissions say - statement distribution

9.18 **Support for wider distribution.** Most submissions that address this issue say that standards monitoring statements should be more widely available.⁷⁵⁸ A minority of submissions say statements are widely enough distributed.⁷⁵⁹ Some say that many consumers do not even know they exist.⁷⁶⁰ One advocacy service says that statements cannot really be considered 'available' if the only way you can get them is if you 'happen to have access to the parliamentary library or if you wish to contact the local office of the Department'.⁷⁶¹

9.19 **More than wider distribution is needed.** Some submissions support wider distribution in principle but suggest other issues that must be addressed if the benefits of wider distribution are to be achieved.

- **Statements only help consumers if they have choices.** A very common point made during consultations and in submissions is that while statements are an important information tool they will not help people make a decision about which service to choose if there is such a high demand for residential services that there is only one or no service available.⁷⁶²
- **Statement may not be up to date.** Under the Department's risk management approach to outcome standards monitoring, some services will be monitored less often and statements will become out date.
- **Standards statements are hard to understand.** The Commission was told during consultations and in submissions that statements are often difficult to understand and interpret and are not user friendly.⁷⁶³ One submissions says that standard monitoring statements are 'generalised, neutralised and purelised

[sic] into statements which are meaningless and unidentifiable'.⁷⁶⁴ Some suggest that one way to make the statements more user friendly is to give services a 'star' rating.⁷⁶⁵ Some say they should be made available in community languages.⁷⁶⁶

9.20 *Ways of widening distribution.* In submissions and during consultations the Commission was told of a number of ways that statements could be made more widely available. These include

- sending them to Aged Care Assessment Teams (Assessment Teams),⁷⁶⁷ advocacy services,⁷⁶⁸ GPs, HACC services⁷⁶⁹ and residents' committees⁷⁷⁰
- giving people better information about how to get hold of the statements,⁷⁷¹ for example, requiring services to tell potential consumers, consumers and their representatives that statements are available on request or as part of the package of information that services are required to give consumers⁷⁷²
- sending them to organisations which act as information points for older people such as community centres, senior citizens' centres, bowling clubs⁷⁷³ and libraries⁷⁷⁴
- making the statements available to publications that older people and their carers are likely to read, such as national magazines, older persons publications⁷⁷⁵ and local community papers which could include summaries of the statements⁷⁷⁶ and
- putting advertisements in newspapers publicising their availability.⁷⁷⁷

One submission says the storage problem that holding large numbers of statements might cause for organisations could be avoided if the statements are put 'on-line'.⁷⁷⁸

What submissions say - requiring that statements be distributed to certain places

9.21 Submissions are divided on whether legislation should require the Department to send statements to specified places.⁷⁷⁹ Submissions suggest that the legislation should require the Department to send statements to Assessment Teams,⁷⁸⁰ advocacy services,⁷⁸¹ local government and council offices,⁷⁸² libraries⁷⁸³ and aged care services.⁷⁸⁴ One submission says the Department should be required to make statements available to the public.⁷⁸⁵

What submissions say - requiring the statement be displayed in a service's entrance area

9.22 Requiring services to display the current standards monitoring statement in their entrance areas was a recommendation of the Braithwaite report.⁷⁸⁶ Submissions the Commission received on this issue are divided. Half the submissions support the idea.⁷⁸⁷ They say it would make statements more available to relatives who may be frightened to approach government departments to get a copy.⁷⁸⁸ It would also act as an incentive to services to achieve a positive report.⁷⁸⁹ Submissions opposing the idea⁷⁹⁰ do so for a number of reasons.

- A bad statement can be distressing to residents and their carers.⁷⁹¹
- The statements will become out of date, especially as the Department moves towards adopting a risk management approach.⁷⁹²
- Putting the statement up in the entrance area is inconsistent with the outcome standard that services provide a 'homelike environment'.⁷⁹³

Alternatives they suggest include requiring services to put up a notice advising that the service will make the statement available on request⁷⁹⁴ and requiring services to do so.⁷⁹⁵

What submissions say - statement that action plans not binding

9.23 A number of submissions agree with the Commission that readers of standards monitoring statements may believe incorrectly that the service must follow that plan and that the problems identified in the plan will be fixed in the future.⁷⁹⁶ Most submissions that address this issue favour clearly stating in the statement that the action plan is not binding.⁷⁹⁷ Some suggest ways to improve the action plan strategy. Some say the action plan should be binding on the service.⁷⁹⁸ Some say that there is little point in having actions plans unless a service must follow them.⁷⁹⁹ Others say action plans should be drawn up in consultation with residents and their representatives.⁸⁰⁰

The Commission's recommendations

9.24 ***Statements should have a user friendly summary.*** Standards monitoring statements are a valuable source of information for consumers. However informing consumers is not their main function. Their main function is to provide a technical, detailed assessment of the extent to which a service has satisfied its legal obligation to meet outcome standards. A document prepared for this purpose may not be in a form that meets consumer information needs. The Commission understands that the program has sought advice on the format of the statement from consumer groups. The Commission supports the program's continued efforts to make the statements as clear and simple for readers as possible. It suggests that the statement should include at the front a summary of the extent to which a service complies with standards. The summary should include information about the areas in which a particular service is performing well as well as those which may need improvement. **The Commission recommends that the Department include in the front of each standards monitoring statement a short, plain English summary of the service's compliance with the standards. The summary should highlight the shortcomings and the achievements in its service delivery.**

9.25 ***Wider distribution of statements.*** The Commission's view is that statements should be more widely publicised and distributed to increase people's access to them. It notes the important role that GPs and hospitals have in informing older people of the existence of statements which may help older people and their carers make an informed choice about a service they may wish to use. If a service provider knows that its standards monitoring statement will be widely available it will make greater efforts to ensure that it meets standards and receives a good report. There are a number of places where the Department should always send statements. These are central, State and regional Departmental offices, the service concerned, the residents' committee concerned (if one exists) and local Assessment Teams. The Commission acknowledges that the Department may already do this. In the Commission's view it should be a legislative requirement to do so. This would ensure that Departmental practice is uniform around Australia. As a matter of best practice the program should also send statements to other central information points for older people and their carers. **The Commission recommends that the legislation should require that the Department make standards monitoring statements available in the central, State and regional offices and send them to the service concerned, the residents' committee concerned (if one exists) and local Assessment Teams. The Department should also arrange for the statements to be sent to Commonwealth funded advocacy services, relevant State, Territory or local government departments with responsibility for aged care, HACC services, libraries and other organisations with which older people and their representatives may have regular contact.**

9.26 ***Services should display a notice about the statement.*** On balance the Commission does not favour requiring a service to display its statement in the entrance area. It may upset residents and detract from the environment. Instead, the legislation should require services to place a notice about the statement on their notice board in a public area. The notice should say that a statement about the quality of care in the service is available and tell the reader how to get it. Legislation should require service providers to give the statement to consumers or their representatives who ask to see it. **The Commission recommends that legislation require services to have a notice on their notice board in a public area about the existence of a standards monitoring statement and stating how to get a copy. Services should also be required to produce the statement at the request of consumers or their representatives.**

9.27 ***Access and equity.*** As part of its access and equity strategy the Department should ensure, where necessary and appropriate, that standards monitoring summaries and notices are available in community

languages and that the information in these is able to be communicated orally by tape or in person. **The Commission recommends that the Department include in its access and equity strategy that where necessary and appropriate it will make standards monitoring summaries and notices available in community languages and support services who may wish to convey information in these statements orally by tape or in person.**

9.28 ***Clear statement that action plans are not binding.*** An outcome standards based approach to quality improvement focuses on what outcomes for consumers aged care service delivery should achieve. In order to encourage creativity and flexibility and to reduce complex and trivial regulation of services, it does not look in detail at how a service should go about reaching these outcomes. This is the reason why the program does not make compliance with action plans compulsory. However, it is important that consumers and other interested parties understand that a service does not have to follow an action plan it has voluntarily prepared as part of the standards monitoring process. For this reason, standards monitoring statements should state clearly the role of any action plan that it includes. **The Commission recommends that standards monitoring statements should clearly state, at the front of the report, that any action plan included in the statement does not bind the service but indicates an intention to meet the standards in the future.**

Commonwealth, State and Territory regulation

Is there unnecessary duplication?

9.29 In the discussion paper the Commission asks whether there is unnecessary duplication in the way that the Commonwealth and State and Territory governments regulate quality and other related matters in residential care. It asks, if there is unnecessary duplication, how it can best be overcome.

Submissions express concern about duplication

9.30 ***Unnecessary duplication.*** Most submissions the Commission received on this issue say there is unnecessary duplication.⁸⁰¹

- ***Too many different monitoring visits.*** The Commission was told that the number of visits causes problems for services. Submissions say it is often difficult for the service provider to understand why all the different visits are necessary.⁸⁰² One submission comments.

We have visits from the fire department. We have standards monitoring teams. We have licensing people from local Board of Health ... We have the Health Commission telling us whether our directors of nursing are up to standard as far as their criteria is concerned and we have Nurses Board issuing certificates to the nurses and we have local government planning regulations, the Retirement Villages Act, and the Department of Health, just to name a few and they could all visit in the one week.

This can be very time consuming and take a director of nursing and senior staff out of operation which 'plays hell with outcome standards'.⁸⁰³

- ***Duplicated legal requirements.*** During consultations and in submissions the Commission was told that aged care services are subject to overlapping State and Commonwealth legal requirements. Both levels of government often monitor the same things, including staff employment details, menus⁸⁰⁴ and safety requirements.⁸⁰⁵ Some submissions say that State legislation covering nursing homes and hostels is 'overkill and a waste of resources'.⁸⁰⁶ One submission reports that when setting up a relatively new facility in November 1992 it had to meet the demands of two government bodies which was a waste of time and money when the Commonwealth could check everything.⁸⁰⁷
- ***Conflicting legal requirements.*** The Commission was told of difficulties services have in trying to meet conflicting Commonwealth and State or Territory requirements.⁸⁰⁸ It was told of a residential service approved by the Commonwealth which had to be rebuilt to meet State government requirements. Another service reports a State licensing team asking for changes although the service had received a satisfactory report from a Commonwealth standards monitoring team.⁸⁰⁹ This conflict has been used as an excuse for inaction and a deterrent to remedial action.⁸¹⁰

- **Fragmentation of aged care service delivery.** Some submissions are concerned that the involvement of Commonwealth, State or Territory, local government and non-government agencies in aged care has resulted in fragmentation of service delivery in the area of community care⁸¹¹ and HACC and residential services.⁸¹² The Commission was told that both consumers and services find the array of government authorities responsible for aged care very confusing and cumbersome.⁸¹³ One submission says that while their organisation is not affected by duplication 'we did find that when dealing with our problem resident, the Commonwealth tended to say it was a State matter and vice versa. This prolonged the whole issue, cost us much more money and caused stress.'⁸¹⁴

9.31 **Solutions suggested by submissions.** Submissions suggest a variety of solutions to the problems they identify.

- **Clearer Commonwealth/State responsibilities.** Some submissions favour a clearer division of responsibilities between the levels of government.⁸¹⁵ The Commission heard strong support for the Commonwealth's assuming total responsibility in this area.⁸¹⁶ There was some support for giving the States and Territories and local government more money and responsibility.⁸¹⁷ Alternatively one regulatory body, independent of both the State and Commonwealth, with representatives from both Departments, could be established.⁸¹⁸
- **Legislative changes.** Some submissions suggest duplication can be overcome by legislative changes. Suggestions include
 - overriding principal Commonwealth legislation, with identical template legislation in each State and Territory⁸¹⁹
 - consistent standards applying across all services⁸²⁰ or one set of standards and guidelines applying across Australia⁸²¹
 - exempting facilities as far as possible from obvious duplication⁸²²
 - abolishing State and Territory regulation and modifying Commonwealth legislation, if lacking in certain areas, to cover any deficiencies⁸²³
 - letting the Commonwealth set standards and the States and Territories monitor them
 - enacting complementary Commonwealth and State and Territory legislation.
- **Greater co-operation.** The Commission was told of areas of co-operation between Commonwealth and State or Territory governments. For example, in Western Australia the State works with the Commonwealth from the approval in principle stage to help facility planning and funding at a regional level.⁸²⁴ However a number of submissions call for greater co-operation between Commonwealth and State and Territory governments.⁸²⁵ Suggestions for achieving this include
 - Commonwealth and State and Territory governments should negotiate to streamline procedures for licensing and regulating private nursing homes⁸²⁶
 - Commonwealth and State and Territory governments should develop common standards, Standards Monitoring Teams and visits⁸²⁷ and
 - there should be better communication and information exchange between the different levels of government.⁸²⁸

Commonwealth and State and Territory developments

9.32 The Nursing Homes Consultative Committee has identified the issue of overlap and duplication in legislation between the Commonwealth and State and Territory governments as a concern. The Council of Australian Governments (COAG) is considering the issue as part of its broader examination of Commonwealth and State and Territory roles and responsibilities. The Commonwealth supports, in principle,

action taken by the States and Territories to rationalise legislation governing nursing homes and hostels. However, it considers amendments to legislation which jeopardise the well being of residents to be unacceptable. It is continuing discussions with States and Territories to ensure changes to State and Territory legislation do not do so. The Commonwealth is currently reviewing all relevant State and Territory legislation, including proposed amendments, with a view to identifying gaps and areas of duplication.

The Commission's recommendation

9.33 The Commission is concerned to avoid unnecessary duplication and conflict in the regulation of aged care services as a result of Commonwealth and State and Territory government involvement. State and Territory involvement in regulating quality and other matters in residential care differs markedly. State and Territory governments have varying commitments to putting resources into monitoring existing legislative requirements. It is beyond the Commission's terms of reference to make recommendations about which level of government should take responsibility for ensuring quality services. The Commission is concerned, however, that the new legislation ensure that all services are subject to standards, including those relating to the physical environment in which care is provided. As far as possible and appropriate standards should be uniform around Australia. **The Commission recommends that the Commonwealth should continue to consult with State and Territory governments about the regulation of aged care services with the aim of ensuring there is no unnecessary regulatory duplication, conflict or gaps and that, as far as possible and appropriate, standards are uniform around Australia. Any changes in regulation should preserve or enhance rights and protection for aged care service consumers.**

Standards Review Panels

What are Standards Review Panels?

9.34 Standards Review Panels review a proposed decision by the Minister to declare that a nursing home or hostel has not complied with outcome standards. Panel membership consists of an industry, union and consumer representative and a non-voting Departmental officer. A panel may recommend to the Minister, among other things, that he or she should make the proposed declaration. The Minister may accept or reject the recommendation. The Minister's decision to declare that a service has not complied with outcome standards is not reviewable by the AAT, whether or not the matter has been referred to a Standards Review Panel. The Minister's decision to impose sanctions other than a declaration is reviewable by the AAT.

Should Standards Review Panels be retained?

9.35 **Discussion paper.** The Commission's discussion paper asks whether Standards Review Panels are the appropriate body to review the decision to declare that a nursing home or hostel is not complying with outcome standards.

9.36 **What submissions say.** Most submissions received by the Commission on this issue say that Standards Review Panels should continue to exist.⁸²⁹ Other comments include

- panels should not be involved in settling disputes about the monitoring process as some have suggested because this would involve the panel being involved too early and inappropriately⁸³⁰
- panels should continue provided panel members are aware of the outcome standards process and associated legislative requirements⁸³¹
- the power of panels should be widened⁸³²
- Secretarial functions could be handled outside the Department and the panel members should be appropriately experienced and in no way associated with the original decision.⁸³³

9.37 **The Administrative Review Council's report.** The Administrative Review Council (ARC), as part of its work, considered whether Standards Review Panels should be replaced by review by the AAT. The ARC's report supports the continued existence of the Panels to provide a specialised assessment of standards and

advice on this to the Minister. The report also says a Minister's decision to apply sanctions or remove funding should be subject to AAT review. It recommends that if the Minister considers that urgent action should be taken, for example where there is abuse of residents, he or she should be able to issue a Ministerial certificate stating that urgent action is necessary. This would prevent the service provider using review processes to defer the removal of funding or the imposition of a sanction.⁸³⁴

9.38 ***The Commission's recommendation.*** The Commission supports the ARC's recommendations to keep Standards Review Panels as a review mechanism. There is general support for them in the industry. They have the important role of providing the Minister with specialist and independent advice about whether an aged care service is meeting required standards. However, to ensure consistency and efficiency there should be a single panel system which applies to hostels, nursing homes and Care Packages. **The Commission recommends that new legislation should establish a Standards Review Panel in each State and Territory which has the power to review the Minister's declaration that a service has not met standards. The panels should be available to review decisions in relation to all aged care services including hostel care, nursing home care and Care Packages.**

10. User rights

Introduction

10.1 The Aged Care program (the program) has developed a number of specific strategies designed to promote the rights of older people who use the services it funds. The most important strategies are

- charters of rights and responsibilities
- formal agreements between clients and the service
- support services which help users and their representatives to preserve and enforce their rights including
 - Departmental complaints units in all State and Territory offices
 - independent advocacy services
 - a community visitors scheme in nursing homes
 - a consumer information program.

The program is further developing these strategies in light of its move towards a quality assurance approach. It is developing information, education and marketing strategies to promote Australians' image of older people as active decision makers with their own preferences and ability to pursue them. This chapter is about some of the user rights strategies.⁸³⁵ It sets out what submissions say about these strategies.

- It describes what some submissions say about the impact of recent user rights strategies and practical measures which can be used to help protect consumer rights (para 10.2-4).
- It states the Commission's view on legislating the outcomes which user rights strategies aim to achieve (para 10.5-8).
- It looks at the value of charters of rights and responsibilities and makes a number of recommendations about them (para 10.9-17).
- It discusses the value of written agreements between service providers and consumers as a way of protecting consumer rights and makes a recommendation about them (para 10.18-27).
- It states the Commission's view that the Commonwealth should provide greater support to advocacy services because of the critical role they play (para 10.28-32).
- It makes a recommendation that the Community Visitors Scheme be extended to provide for people getting other types of aged care services apart from nursing home care (para 10.33-41).
- It makes recommendations about how the legislation should provide for advocacy services and the Community Visitors Scheme (para 10.42-51).
- It examines the participation of older people in the management of services and makes a recommendation about this (para 10.52-57).

User rights strategies in context

Mixed views about strategies

10.2 Consultations and submissions show that there are mixed views about the impact of recent user rights strategies. One older woman whose husband had lived in a nursing home argues strongly that user rights strategies are not as important as quality care and the right to be nursed, fed and well looked after.⁸³⁶ On the other hand a focus group participant, referring specifically to the charter but also commenting more broadly on changes in the nursing home she has lived in over the years, says

There has been a lot of changes since then [1989 when the charter was introduced] ... Well, in the meals and the care. When I came here people were dragged out of bed ... And meals - you just got what was put in front of you and if it was no good, bad luck ... We worked quite hard with our residents' meetings. And we changed a lot of the meals and things. General attitudes in the nursing home have changed a lot over the years. Much for the better. (*nursing home resident*)

Another says

The book [*Your guide to Residents Rights in Nursing Homes*] is a load of hog wash. It overstates our rights. (*nursing home resident*)⁸³⁷

Changes in the system also needed

10.3 Many submissions say that user rights strategies will not be effective unless there are also changes in the system.

- ***More flexible aged care services.*** Many people say that more flexible service delivery is necessary to achieve 'user rights'. People say they want models of care tailored to meet their needs rather than having to modify their need to get care by accepting standard aged care models such as nursing homes or hostels.⁸³⁸
- ***Change people's attitudes towards older people.*** Submissions say it is important to change community attitudes towards older people, for example, by education campaigns and by portraying older people more positively in the media. It is critically important to educate staff of services because 'staff make decisions as to whether or not to uphold rights in their every interaction with residents'.⁸³⁹ One submission calls for a publicity campaign to educate older people about the fact that they have rights, that they are not on charity and do not have to accept unwarranted treatment.⁸⁴⁰

Practical measures to enhance the protection of rights

10.4 The discussion paper asks what practical measures can be used to ensure that clients' rights are protected. Submissions give a range of responses to this question. Some of these matters are discussed in more detail below or in other chapters of this Report. The main themes are as follows.

- ***Set out rights clearly in legislation.*** Consumer rights should be clearly enshrined in legislation.⁸⁴¹
- ***Support for outcome standards.*** The outcome standards process plays an important role in protecting rights.⁸⁴² Sanctions should be imposed on a service where outcome standards are not met.⁸⁴³
- ***Advocacy and complaints mechanisms.*** Well resourced advocacy and complaints mechanisms are essential.⁸⁴⁴
- ***Information about rights.*** Older people and their carers should be given adequate information about aged care, including about what their rights are.⁸⁴⁵

Setting out user rights outcomes in legislation

The discussion paper

10.5 The Commission provisionally proposes in its discussion paper that the new legislation should set out the outcomes the program is trying to achieve for consumers through its user rights strategies. It asked if people agreed and, if so, what these outcomes should be.

What submissions say

10.6 **Support for setting out user rights outcomes in legislation.** Nearly all submissions support the proposal to set out in legislation the outcomes the program is trying to achieve for consumers through its user rights strategies.⁸⁴⁶ This would act as a useful guide,⁸⁴⁷ 'provided the outcomes are not too prescriptive so as to discourage flexibility in service provision'.⁸⁴⁸ It would make clear to service providers what their responsibilities are and give older people and their advocates a stronger basis for enforcing their rights.⁸⁴⁹

10.7 **What the outcomes should be.** The outcomes should be very broadly drafted⁸⁵⁰ and take into account the rights of all interested parties.⁸⁵¹ They should be easy to understand.⁸⁵² Suggested models for the outcomes are the charters,⁸⁵³ the current outcomes for the user rights program,⁸⁵⁴ the outcome standards⁸⁵⁵ and the rights listed in the United Nations' Principles for Older Persons.⁸⁵⁶ Some submissions list specific matters which the outcomes should cover.⁸⁵⁷ Suggestions include the right to privacy, dignity and respect, choice, a safe, secure and home like environment,⁸⁵⁸ quality care,⁸⁵⁹ equal access to goods and services and appropriate consultative, complaints and review mechanisms.⁸⁶⁰

The Commission's view

10.8 Many older people, particularly those living in a nursing home or hostel, are relatively powerless. They may need special assistance to ensure that their rights are not infringed. The Commission supports the program's user rights strategies now in place as one way to promote the rights of older people receiving Commonwealth funded services. It welcomes the very recent strategy that aims to change the way our society views older people. The Commission takes the view, however, that broader systemic changes are necessary. The program should direct more resources into educating older people, service providers and staff about user rights. Most importantly, current user rights strategies should be complemented by the development of program policy which has a central aim to fund more flexible services which better meet individual needs. The new legislation should reflect the importance the program places on these matters. Its objects clause should include the outcomes of innovative, targeted and flexible needs based service delivery, user rights, access and equity and quality service delivery.⁸⁶¹

Charters of rights and responsibilities

What are charters?

10.9 **Broad statements of principle.** Charters of rights and responsibilities form part of the user rights package. They set out rights and responsibilities in broad terms. There is a charter for nursing homes and a charter for hostels. They are almost identical. The kinds of rights charters cover include the right to quality care, information, dignity and respect and personal independence. Charters set out the responsibilities of services and residents. Charters are produced in poster form to be put up in residential facilities. There is not a charter for Care Package recipients. The program is preparing a brochure which outlines clients' rights. (These have been developed from Care Package service standards.) When it is finalised the brochure will be sent to all Care Package recipients. They will also be sent to all Assessment Teams and Care Package providers for distribution to new clients.

10.10 **The legal status of charters.** Residential charters are in Schedules to the current aged care legislation and in a Schedule to the model nursing home agreement. The nursing homes legislation says the resident's agreement must be interpreted in accordance with the charter's principles. If no agreement is signed the notice the Minister imposes on the service states that the service must comply with requirements consistent with the charter in relation to the residents. General conditions of hostel recurrent funding say that services

must be provided in accordance with the charter. Care Package general conditions require service providers to give written advice to prospective recipients or their representatives of the rights, responsibilities and entitlements of recipients and management before the agreed date of receipt of services is confirmed.

The discussion paper

10.11 The Commission's discussion paper asks how charters can be used most effectively to protect residents' rights.

What submissions say

10.12 ***Charters are valuable.*** Most people, both in consultations and submissions, support charters.⁸⁶² Charters are viewed as an important statement of principle, with an educative and symbolic value which asserts the ideal.⁸⁶³ They are an 'excellent way of conveying to people their rights in a simplistic manner'.⁸⁶⁴ Advocacy services report that the charter is a useful bargaining tool when dealing with resident complaints. Focus groups participants illustrate the importance of charters in promoting awareness of rights by referring to them as a reference point for the changes that have occurred as a result of the introduction of user rights initiatives and outcome standards monitoring. One hostel resident said

I was very pleased when the Charter was put in place ... When I went to a hostel where my sister is now... it was great to go up there and see the Charter on the wall. (*hostel resident*)⁸⁶⁵

10.13 ***Problems with charters*** . Some submissions are less enthusiastic about the charters. They say that there is no use having the charter if it is not capable of legal enforcement or if people are not in a position to assert their rights. One submission says charters are not always displayed because this is encouraged but not required.⁸⁶⁶ Many people are said to be unaware that the charter has a basis in legislation.⁸⁶⁷ One commentator says the charter ends up being just a 'battered poster stuck in the corner', which people do not notice or honour.⁸⁶⁸ Charters are said to be just designed to make carers 'feel better'.⁸⁶⁹ Some service providers feel that the charter is unbalanced and gives too many rights and not enough responsibilities to residents.⁸⁷⁰ All focus groups participants were aware of the charter, but some had not read it. The report concludes that literacy skills may be a factor in a person's use of the charter. Some focus group participants say the charter makes little difference.

I don't think staff often read the Charter ... I don't think they know what it's all about. (*hostel resident*)⁸⁷¹

10.14 ***Making charters work better.*** Submissions suggest different ways that charters can be used more effectively to promote consumer rights.

- ***Better inform people about charters.*** Charters should be better promoted.⁸⁷² One submission says

Perhaps there should be a legislative requirement to display the charters in an appropriate way. The posters could be reprinted to make them more attractive and less like an airport Commonwealth Immigration Notice.⁸⁷³

Some submissions say there should be a formal process by which consumers are told about the charter when they first use a service.⁸⁷⁴ During consultations the Commission was told of the success of the Central Australian Advocacy Service in using Aboriginal resource workers to explain orally to Aboriginal people the importance of the charter, using land rights as an analogy. Some submissions stress the importance of having the charter available in the client's own language.⁸⁷⁵

- ***Ensure the charter is legally enforceable.*** Some submissions say that the charter would be more useful if it had legal effect.⁸⁷⁶ Others say it can be effective only if people are helped to enforce their rights.⁸⁷⁷ Compliance with the charter should be linked to outcome standards requirements,⁸⁷⁸ alternatively, sanctions could be imposed where services fail to comply with the charter.⁸⁷⁹

The Commission's recommendations

10.15 ***There should be one charter for residential care.*** The Commission's view is that charters are a useful strategy to promote the rights of older people using Commonwealth funded aged care services. They are a strong, symbolic statement of principle and an effective educative tool. The Commission believes the

charters should be promoted better by the program with the aim of ensuring that the wider community, the aged care industry, consumers generally and consumers in special needs groups know about the charter, its contents and legal effect. The Commission does not see any justification for there being separate charters for hostel and nursing home care. The charters are currently almost identical. They include broad statements of principle which apply to any residential setting, regardless of the type of care being provided. It is inappropriate to have two charters when there are now multi-purpose services. Services providing both hostel and nursing home care may be more common in the future. **The Commission recommends that the new legislation should include one charter of rights and responsibilities for residential care. It recommends that the Commonwealth develop strategies to promote the charter better to older people and their representatives, the aged care industry and the wider community.**

10.16 *There should be a charter for Care Packages.* There is not a charter for Care Package recipients. The program is preparing a brochure which outlines clients' rights. This will be sent to recipients. The General Conditions of funding for Care Packages provide that service providers must notify clients of their rights and responsibilities. The conditions do not include a comprehensive statement of rights and responsibilities and do not incorporate the document (the brochure) that does. The concept of a charter of rights is well established and understood, and as the Commission's consultations show, it is regarded by many as a valuable tool for asserting rights. **The Commission recommends that the new legislation should include a charter of rights and responsibilities for recipients of Care Packages.**

10.17 *Compliance with charters should be a condition of funding.* The legal status of charters now varies depending on the service type. There is no logical justification for this variation. It is important that the new legislation give charters clear legal status in relation to all service types and that the program has clear authority to take action if a charter is breached by a service provider. The legal status of charters should be consistent across service types. **The Commission recommends that new legislation should require that services comply with the charter as a condition of funding. This would give the Department the right to apply sanctions against a service if it failed to comply with the charter. The charters should also be Schedules to the new legislation.**

Written agreements between service providers and consumers

Existing law and practice

10.18 Services are now required, as a condition of recurrent funding, to offer consumers a written contract which sets out the rights and obligations of each party. The types of matters covered by the written contracts include, for example, the rules of the service, charges and when service provision can cease. These agreements are administered differently depending on the type of care a consumer gets.

- **Nursing home care.** There is a model agreement, approved by Parliament. A service is expected to offer the model agreement or an agreement in a very similar form. If no agreement is in force the Minister may issue the service with a notice in relation to a particular resident which reflects the agreement and sets out the obligations of proprietors.
- **Hostel care and Care Packages .** Services must draw up and offer a written agreement, covering matters set out in the general conditions of recurrent funding. The service must comply with the general conditions of recurrent funding in its dealings with each consumer, whether or not an agreement is entered into.

The discussion paper

10.19 The discussion paper sets out the advantages and disadvantages of these agreements. It asks whether agreements should be kept and, if so, what form they should take. It suggests that, as an alternative to agreements

- legislation should impose on service providers directly the same types of obligations as are now covered by agreements and

- service providers should be obliged, as a condition of funding, to provide clear, accessible information about the matters now covered by agreements to older people, and, where appropriate, family and friends, when they first begin to receive a service.

Instead, or in addition to this proposal, the paper says legislation could include certain 'implied terms' which would automatically be incorporated into the contract (written or oral) which already exists between a service provider and a consumer.

What submissions say

10.20 ***Mixed views on the value of agreements.*** There were mixed views expressed in consultations and submissions about the value of written agreements. Some submissions support keeping agreements but not necessarily in their current form.⁸⁸⁰ Others do not support keeping them.⁸⁸¹ Many submissions distinguish between nursing home residents and people getting hostel care or Care Packages on the grounds of the different levels of dependency and the financial arrangements involved.

10.21 ***Benefits of agreements.*** Like charters, agreements are said to have educational and symbolic value.⁸⁸² They also give residents enforceable rights.⁸⁸³ One submission says that if residents can sign them they feel that they are in control and empowered.⁸⁸⁴ Agreements serve a vital purpose for hostel residents who often contribute large amounts of their money to the service.⁸⁸⁵ Hostel residents who took part in the focus groups say that the agreements give them a sense of security of tenure and knowledge of their rights, especially in relation to financial matters.

You've got that feeling of security. You're not going to be made homeless. Because you've got that contract, provided you are a good living person, you've got that security. (*hostel resident*)⁸⁸⁶

10.22 ***Problems with agreements.*** People identify a number of problems with the agreements as they are now administered.

- ***Agreements are long, complicated and confusing.*** Many submissions say that older people find it very hard to understand the agreements because they are long, complicated and technical.⁸⁸⁷ Agreements 'worry people'.⁸⁸⁸ Therefore, many people do not sign them.⁸⁸⁹ No nursing home residents who participated in the focus groups had been offered agreements. Some Aboriginal hostel residents were uncertain whether or not they had been offered or had signed an agreement. Participants in focus groups spoke of being vague, in shock, or in bad health at the time of their move. They reported that their state of mind at the time influenced their capacity to take things in.

I signed something but I'm not sure what it was. (*hostel resident*)⁸⁹⁰

If interpreters are not available, people of non-English speaking backgrounds may not understand an agreement.⁸⁹¹ The form it takes may not be culturally appropriate.

- ***Some agreements limit rights.*** Some agreements are said to limit rights.⁸⁹² They may impose unacceptable conditions on residents, for example, restrictions on drinking alcohol or having sex.⁸⁹³
- ***Many consumers lack 'capacity'.*** The point was made often during consultations and in submissions that many older people may lack the legal capacity to enter into contractual relations with the service.⁸⁹⁴ One submission says that

between 60% and 70% of nursing home residents suffer from moderate to severe cognitive impairment as a result of a dementing illness. The majority of these would be unable to enter into any informed contractual arrangement.⁸⁹⁵

The Alzheimer's Association of Victoria notes, however, that there are a significant number of people with dementia who have sufficient recognition to be well able to express their preferences for care and treatment and should be given the dignity of being asked their opinion.⁸⁹⁶ Some residents do not have a representative to sign the agreement; others may have families who do not necessarily have the resident's interests at heart.⁸⁹⁷

- **Consumers are unlikely to enforce agreements.** Enforcement of agreements is recognised as difficult, if not impossible,⁸⁹⁸ because older people often lack the financial or emotional support to do so.⁸⁹⁹ People fear reprisals. Some submissions say there is no use having unenforceable agreements and that it is wrong to place the onus on frail older people to enforce the contract.⁹⁰⁰ Enforcement should be the Department's responsibility.⁹⁰¹ Enforcement action may, however, be taken by advocacy, mediation or complaints services.⁹⁰² Some hostel resident focus group participants sought legal advice before they signed the agreement. They said this was not particularly helpful.

When I went to my solicitor and asked about [the Agreement], I said, 'shouldn't I have something better than this?' She said, 'if they've given you this I suppose that's all they're prepared to give you.' (*hostel resident*)

- **Resistance from the aged care industry.** Some sections of the aged care industry do not support the agreements.⁹⁰³ Many services do not offer them, particularly nursing homes. They simply rely on the alternative notice of requirements.⁹⁰⁴ As one focus group participant reports

[The service] told us nothing ... Oh, we got a letter saying they don't do contracts and that we didn't have a choice of signing it. (*relative of a nursing home resident*)⁹⁰⁵

Some service providers resent what they see as an agreement 'imposed' by government.⁹⁰⁶ Others say they already honour their obligations so the agreements are unnecessary.

10.23 **Keep agreements but make some changes.** Many submissions support agreements in principle but say that they should be administered differently.

- **Abandon 'model' agreements.** Some submissions say they prefer the scheme for hostels (where general conditions set out what should be covered by an agreement and services devise their own) to the nursing home model agreement.⁹⁰⁷ The form of the contract should not be imposed by government but should be left up to service providers to develop.⁹⁰⁸ Aged Care Australia favours flexibility, coupled with a recognition of basic rights. Its preferred position is a legislative base that leaves room for the development of agreements.⁹⁰⁹
- **Keep agreements for some service types only.** Some submissions say hostel agreements should be kept but not nursing home agreements.⁹¹⁰ Hostel residents are said to be better able to understand the agreements and to defend their rights.⁹¹¹ The Australian Nursing Homes and Extended Care Association favours legislating and enforcing the charter, abolishing nursing home agreements and limiting hostel agreements to cover financial matters only (for example, entry contributions).⁹¹²
- **Make agreements simpler and inform people about what they say.** If agreements are kept they should be simpler, shorter and written in plain English.⁹¹³ One submission says the agreements should be supplemented by a Code of Fair Practice which should specify the rights and obligations of service providers and residents and require the service to give written answers to consumers if they ask specified questions about the operations and rules of the service.⁹¹⁴ It says agreements should be available in braille, large print formats and other languages. Submissions say services should be required to provide clear information about agreements to consumers and their representatives when they first begin to receive the service.⁹¹⁵ People should be told about the legal status of the agreements.⁹¹⁶ Some submissions say services should be required to explain the agreements to consumers orally.⁹¹⁷
- **Improve enforcement options.** Submissions suggests ways to improve the possibility of agreements being enforced. They include
 - giving people more help to enforce their rights, for example, through access to advocacy services⁹¹⁸
 - making the agreement enforceable in a tribunal rather than a court⁹¹⁹
 - having fines attached to different clauses of the agreements.⁹²⁰

10.24 *Impose statutory obligations to comply with user rights.* During consultations and in submissions support was shown for the Commission's proposal to impose statutory obligations on service providers to comply with the same types of matters now set out in written agreements.⁹²¹ Some submissions favour the use of implied terms, either to replace agreements entirely⁹²² or as well as simple written agreements.⁹²³ As one submission points out

you do not actually sign a whacking great contract ... every time you buy something, you rely on the protections you have in consumer legislation.⁹²⁴

This option is preferred by some because people getting nursing home care are not in a position to protect their rights,⁹²⁵ because they are vulnerable, cannot understand or use the agreement⁹²⁶ or because they have an unequal bargaining position.⁹²⁷ The Department often imposes obligations directly on nursing homes anyway by using enforcement notices.⁹²⁸ It should take responsibility for taking action on behalf of residents.⁹²⁹ Some submissions consider that, in addition to imposing statutory obligations on services, service providers should also have the option of offering written agreements to consumers.⁹³⁰ The Accommodation Rights Service NSW favours

- for nursing homes - a comprehensive scheme of statutory rights covering the same matters now found in the nursing home model agreement, a resident activated complaints and adjudicative mechanism and a plain English information package for residents
- for hostels - a standard agreement tailored for each State and Territory, which could be varied to give residents more rights, and criminal sanctions for service providers who derogate from the standard agreement or contract out of their statutory obligations.⁹³¹

Submissions support having a legislative requirement that service providers give consumers and their representatives comprehensive information about their statutory rights and responsibilities.⁹³²

The Commission's view

10.25 The Commission acknowledges that written agreements have important symbolic and educative functions. It supports the principle now reflected in written agreements that older people getting Commonwealth funded aged care services should be able to enforce rights themselves. However, the current arrangements are not the most effective way of achieving this aim, particularly for nursing home care. Most consumers, especially those receiving nursing home care, find agreements extremely difficult to understand. Many lack the legal capacity to enter into them. While an agreement may have been a helpful negotiation tool in some cases, not one agreement, to the Commission's knowledge, has been legally enforced. There is significant resistance from the aged care industry to the model nursing home agreements. Aged Care Australia and the National Association of Nursing Homes and Private Hospitals have developed an alternate agreement. The other major industry organisation, the Australian Nursing Home and Extended Care Association Ltd, advises members that they may enter into agreements at their own discretion. As at 31 July 1994 only 15% of nursing home residents had entered into an agreement. The administration of the agreements is cumbersome for the Department. However, written agreements may be more useful for people getting hostel care and Care Packages. These people are likely to be in a better position to enforce their rights. Written contracts protect the sometimes large amounts of money that hostel residents contribute towards their care.

The Commission's recommendation

10.26 *Legislate implied terms covering the same types of matters now found in written agreements.* In the Commission's view there is a better way to protect the rights of older people using Commonwealth aged care services than the current scheme of written agreements. The Commission recommends a scheme in which the new legislation sets out implied legislative terms covering the same types of matters that are now dealt with by the written agreements. These implied terms would be terms of the contract which already exists between the service provider and the consumer (whether written or oral). The Commission's view is that this is a better option than imposing statutory obligations directly on service providers because it gives consumers individual rights which they can, in theory at least, enforce in the courts. Where a service breaches implied terms consumers and their representatives would also be able to take complaints to the

Department or to the independent complaints body which the Commission recommends should be established.⁹³³ The new legislation would make it a condition of funding that the service provider comply with the implied terms and any other written contract developed by the service. This would allow the Department to take action against a service when it breaches implied terms and to impose sanctions on it. **The Commission recommends that the new legislation should set out implied terms for each service type dealing with the same types of matters which are now covered by written agreements. These terms would be terms of the contract, whether written or oral, which exists between the consumer and the service provider. There should be core terms which apply to all aged care service types and special terms applying to a particular service type where appropriate. One of the implied terms should be that the service comply with the charter of rights and responsibilities. The legislation should provide that**

- **services may, but need not, offer a written agreement to residents receiving nursing home care**
- **services must offer a written agreement to persons receiving hostel care and Care Packages dealing with specified matters which should include at least the following**
 - **what charges the consumer must pay and how the charges are calculated**
 - **the agreed date of entry or when service provision will start**
 - **for residents of hostels, the payment and refund of entry contributions, including administrative fees and what the service may keep from the entry contribution**
 - **for people getting Care Packages, what services are to be provided**
 - **tenure provisions**
- **written agreements must set out the implied terms**
- **no written agreement can change or leave out implied terms**
- **it is a condition of recurrent funding that services comply with the implied terms.**

10.27 ***Make it a condition of funding that services provide simple information on rights.*** Unless people know what their rights are, they cannot enforce them. The best way to ensure they do is to provide clear, simple and accessible information to consumers and their representatives. Written contracts are not usually clear and simple. They are often, like legal documents generally, very intimidating. The Commission's recommendation that implied terms should be set out in legislation makes it particularly important that consumers and their representatives are told what their rights and responsibilities are. Otherwise they will remain hidden in legislation. In chapter 11 the Commission recommends that service providers should be required, as a condition of funding, to provide certain information to consumers and their representatives before they begin to receive the service. This information should explain the system of implied terms, what the terms say and what people can do if the service breaches the agreement.

Advocacy services

Existing law and practice

10.28 ***What advocacy services do.*** The program grants funding to community organisations to provide free advocacy services to residents of Commonwealth funded nursing homes and hostels, Care Package recipients, potential clients and their representatives and former consumers of services. The Commonwealth funds these services to help people who have difficulty exercising their rights to do so.⁹³⁴ These services are independent of the Department. They provide confidential information, advice and referral services. They act as advocates and promote awareness of rights through information and education strategies. There are currently nine services across Australia - one in each State and Territory, except for the Northern Territory where there are two. Some services also receive funding to provide services to clients of home and community care and disability services programs.

10.29 **Recent developments.** The program commissioned an independent evaluation of advocacy services in 1992-93.⁹³⁵ The Minister accepted the report's recommendations and new principles, goals and objectives for advocacy services were developed and approved through a consultative process. The base level of funding for advocacy services for the 1994-95 financial year was increased by approximately 30% to \$1,424,764 million. The increased funding was allocated mainly to provide better advocacy services to people living in rural and remote areas and people of non-English speaking backgrounds. The Keys Committee also recommended that initiatives which help safeguard consumers should be strengthened, including advocacy, complaints handling and education strategies.⁹³⁶ The program seeks to ensure that advocacy services have broader information and education functions as part of the new phase for user rights strategies.

What submissions say

10.30 **Advocacy services are extremely valuable.** During consultations and in submissions Commonwealth funded advocacy services were praised for their good work. They are said to be a 'crucial component of the user rights program'.⁹³⁷ Services are commended for helping older people, who may be afraid to complain,⁹³⁸ to exercise their rights and for ensuring user rights are upheld.⁹³⁹ Advocacy services are seen as one essential strategy to help solve the problem of older people fearing reprisals if they make a complaint.⁹⁴⁰

10.31 **More services better resourced.** The Commission was told that there are not enough advocacy services to go around and that existing services are not adequately resourced.⁹⁴¹ One submission explains that the increasing demands by individuals for advocacy services means services have less time available for education seminars and visiting residents' groups and committees.⁹⁴² Submissions say the legislation should allow the Minister to fund advocacy services on a continuing basis⁹⁴³ or at least triennially instead of annually.⁹⁴⁴ Submissions suggest new areas in which advocates could be usefully employed - during the assessment process,⁹⁴⁵ at general meetings⁹⁴⁶ and in educating people about complaints mechanisms.⁹⁴⁷ Some submissions favour extending the client group of advocacy services to people in special accommodation homes 'who are even more exposed to inadequate care'⁹⁴⁸ and State government nursing homes.⁹⁴⁹

The Commission's view

10.32 The Commission is impressed by the level of support shown in the community for advocacy services. Over and over again people stress the importance of advocacy as a way of ensuring that older people in a vulnerable position have a better chance of ensuring their rights are not infringed. The Commission is convinced that many older people receiving Commonwealth funded services are reluctant to complain because they do not want to make a 'fuss' or because they fear reprisals.⁹⁵⁰ Advocacy services help people to make and resolve complaints. They also perform an important role in educating services and consumers and in providing information. The Commission recognises that the resourcing of advocacy services is clearly a matter of policy for the program. However the Commission's view is that the Commonwealth should consider providing more funding to existing advocacy services and to establish new services because of the critical role they play in helping older people using Commonwealth funded services to protect and enforce their rights. The level of resourcing should be adequate to provide for any new responsibilities expected of services and to ensure services can manage their existing workloads.

Community Visitors Scheme

Introduction

10.33 **Community Visitors Scheme.** The Community Visitors Scheme (CVS) is a relatively new arm of the user rights strategy. The program funds community groups to recruit, train and provide support to volunteers who regularly visit isolated nursing home residents who wish to be part of the scheme. Volunteers provide company and support but do not act as advocates for residents.⁹⁵¹ The scheme aims to reach about 7.5 % of the total number of people living in nursing homes. Some ethno-specific organisations are approved to sponsor visitors.

10.34 **ACT hostel visitors pilot scheme.** Using Aged Care Program Support money the Department has given one-off funding to a community based organisation in the Australian Capital Territory to pilot a hostel visitors' scheme. It is not part of the Community Visitors Scheme. The scheme targets residents of non-

English speaking backgrounds. Volunteer visitors are trained in cultural awareness. The pilot scheme will be evaluated at the end of the 1994-95 financial year. Reports so far suggest the scheme is working extremely well. This indicates that visitors schemes may be as effective in hostels as the Community Visitors Scheme is in nursing homes. As hostel residents tend to enjoy better health and fitness there will probably be more opportunities for them to go on outings with their visitor.

The discussion paper

10.35 The discussion paper asks whether the CVS should be available to hostel residents and people getting Care Packages. The discussion paper argues that while the current distinction may be justified on the basis that nursing home residents are more physically and socially isolated, people getting other aged care services are becoming more frail and can be equally isolated.

What submissions say

10.36 ***Benefits of the existing scheme.*** Consultations and submissions show that most people are impressed with the way the current CVS is operating in nursing homes.⁹⁵²

The CVS has demonstrated the benefits to older people in preventing social isolation, providing encouragement and offering the understanding and supportive ear provided by a friend.⁹⁵³

The industry has accepted CVS and its value. The scheme is said to be particularly beneficial to people of non-English speaking backgrounds.⁹⁵⁴

10.37 ***Some minor problems with the CVS.*** While the scheme is generally regarded as a success submissions identify some problems with the way it operates.

- ***Getting and keeping volunteers.*** Sometimes a volunteer's expectations of the person he or she visits are not fulfilled.⁹⁵⁵ A volunteer may have difficulty communicating with a person with dementia or a younger person with multiple disabilities. Submissions favour volunteer training and support to overcome this type of problem.⁹⁵⁶ There are sometimes communication problems between volunteers and the Director of Nursing, leading volunteers to think that they are unwelcome.⁹⁵⁷
- ***More funding and more visits.*** During consultations the Commission heard that the scheme needs greater financial backing.⁹⁵⁸ One submission says the scheme should allow more people to be visited than is currently the case.⁹⁵⁹
- ***Extend the functions of community visitors.*** Some submissions say that the role of community visitors should be extended. They suggest it would be a good idea if visitors also have a complaints handling function,⁹⁶⁰ could act as advocates⁹⁶¹ or monitor user rights and quality services.⁹⁶²

10.38 ***Support for extending CVS to people getting hostel care and Care Packages.*** Nearly all submissions that address the issue support extending the CVS to hostel residents and people getting Care Packages.⁹⁶³ Various arguments are put forward in support of the change.

- ***Visitors help ease isolation.*** As one speaker said at a public meeting during the Commission's consultations, 'loneliness is one of the worst diseases of old age'.⁹⁶⁴ The CVS would work to prevent social isolation which exists regardless of where people live.⁹⁶⁵ Submissions argue that residents getting hostel care can be just as isolated as people in nursing homes:⁹⁶⁶ 'the social needs of hostel residents are not less because they are possibly more physically able'.⁹⁶⁷ One submission goes even further, saying that hostel residents are more suitable to take part in the CVS than nursing home residents because they are more alert, active and able to participate.⁹⁶⁸
- ***Visitors would prevent people entering residential care.*** Some submissions suggest that extending the scheme to people in the community would help stop people entering residential care because they need social support.⁹⁶⁹ 'The CVS should be extended ... to use mobilisation, activation, motivation and socialisation as a preventative measure against premature institutionalisation as a result of depression based illnesses'.⁹⁷⁰

- **Visitors would help people with dementia.** Submissions say that people with dementia living in hostels are often very isolated.⁹⁷¹
- **Visitors would help people of non-English speaking backgrounds.** Submissions say the CVS is a particularly valuable service for hostel residents of non-English speaking backgrounds who have few relatives or friends to talk to in their first language.

Submissions warn against duplicating existing similar services, for example, HACC funded friendly visitor services.⁹⁷² In any case, extra resources to extend the CVS should not be allocated from other areas of the Aged Care program.⁹⁷³

10.39 **Extending the CVS to isolated people living in the community.** There was some support in consultations and in submissions for extending the scheme to isolated older people at home who do not yet receive Commonwealth funded services.⁹⁷⁴ This would allow people to remain living independently in the community for as long as possible, avoiding the need to enter residential care for reasons of social isolation alone. Visitors could keep an eye on their clients and ensure they have the information and support they need.⁹⁷⁵ The Carers' Association says this extension would also help isolated carers to re-enter the community with much greater confidence in cases where the person they care for dies.⁹⁷⁶

The Commission's recommendation

10.40 In the Commission's view the Commonwealth should be satisfied that all older people receiving Commonwealth aged care services who are isolated are potentially eligible for either the CVS or Home and Community Care funded friendly visitor services. They should be eligible regardless of the type of aged care service they receive or where they live. People living in hostels or getting Care Packages are becoming increasingly frail. Many are socially isolated. People with dementia and people of non-English speaking backgrounds would very much benefit from volunteer visits. The Commission recognises that broadening the focus of the CVS may have resource implications for the Department.⁹⁷⁷ **The Commission recommends that the Community Visitors Scheme should be available to hostel residents who are isolated. Care Package recipients who are socially isolated should have access to HACC funded friendly visitor services or the CVS.**

CVS and advocacy

10.41 The Commission does not recommend that community visitors act as advocates for the older people they visit. Advocates play quite a different role which requires specialised training. However, visitors need to be aware of advocacy services and should refer consumer complaints or their own concerns to advocacy services or the Department for attention.

A legal framework for funding support services

Introduction

10.42 There is no clear legal framework for some funding allocated by the Commonwealth to aged care services. Funding provided outside of legislation includes grants to Assessment Teams,⁹⁷⁸ advocacy services, the Community Visitors Scheme and Aged Care Program Support funding.⁹⁷⁹ These grants are governed by contracts between the organisation and the Minister and administrative guidelines. The discussion paper asks whether the goals and objectives for the operation of the CVS and advocacy services should be set out in legislation.

What the legislation says now

10.43 **Advocacy services.** There is no legislative framework governing the establishment, operation or goals of advocacy services. Services are funded annually. They enter into a written contract with the Minister and are subject to administrative and program guidelines. The legislation makes indirect references to advocacy services. The charters for nursing homes and hostels say residents have the right to an advocate. It is a condition of nursing home funding that service providers allow advocates to enter to meet with residents and

to give help which is reasonably necessary for the meeting to take place. The nursing home model agreement and the service standards for Care Packages say consumers have a right to an advocate.

10.44 **Community visitors scheme.** Community visitors are authorised by the Minister under the *National Health Act 1953* (Cth). Conditions of nursing home funding provide that a proprietor must allow a visitor to enter at any reasonable time to meet with residents and must give reasonable necessary help to enable them to do so. The conditions do not authorise visitors to investigate a service but allow them to tell a Departmental officer or the service provider of any matter of concern to the visitor about how care is provided.

What submissions say

10.45 **Goals and objectives should be in legislation.** Nearly all submissions received on this issue support setting out the goals and objectives of advocacy services and the CVS in the legislation.⁹⁸⁰ Comments in submissions tend to focus on the value of the proposal for advocacy services. They say it would give services a higher profile and provide a clear statement that they are an essential part of the Department's user rights program.⁹⁸¹ One advocacy service says the inclusion of services in the legislation would help make their existence more secure, enable continuing funding to be provided, crystallise their purpose and promote their activities.⁹⁸² It would strengthen the 'validity' of advocates, particularly in the eyes of some service providers who may question their role.⁹⁸³ Legislating the goals and objectives of both advocacy services and the CVS would limit confusion about their respective roles.⁹⁸⁴

10.46 **What the goals and objectives of advocacy services should be.** A legislative framework for advocacy services should not jeopardise their independence or inhibit flexibility.⁹⁸⁵ The Accommodation Rights Service NSW says the legislation should use general statements of principle that encapsulate the goals of services to promote and enhance the rights and interests of residents, but should not include detailed strategies as to how these goals are to be achieved.⁹⁸⁶ Some submissions say the legislation could be modelled on the National Residential Aged Care Advocacy Services Program principles, rather than goals and objectives which may shift in focus.⁹⁸⁷

10.47 **Problems with legislating goals and objectives.** Some submissions do not support providing a legislative framework for advocacy services and the CVS. They say it would inhibit flexibility⁹⁸⁸ and be too prescriptive.⁹⁸⁹ The goals and objectives of services will change as the target group alters.⁹⁹⁰ Legislation goes against the entire nature of advocacy and also against the nature of the CVS which is one of voluntarism and cooperation.⁹⁹¹

10.48 **Clarify powers of entry for advocates.** Submissions say the right of advocates to enter a service to do their work should be clarified.⁹⁹² They say the legislation should give advocates clear rights to enter a service both at the request of consumers or on their own initiative.⁹⁹³ On the other hand one submission expresses concern that if advocates or community visitors could visit services on their own initiative they may 'drum up' business. They should only visit on request.⁹⁹⁴

The Commission's recommendations

10.49 **Legislate funding allocations.** The Commission's view is that the allocation of funding by the program should be a transparent process. The community should know where public money is going and for what purpose. Legislation can help achieve transparency. The Commission recommends that the legislation should give the Minister power to grant funds to approved organisations to meet the objectives of the program. The purposes for which funds can be allocated should be set out in the legislation. These purposes might include

- providing consumers with support services which enhance their rights and quality of life
- ensuring that people from special needs groups have better access to available services.

The Minister should have the power to attach conditions to these grants. The matters which these conditions should deal with should be set out in legislation. **The Commission recommends that the legislation should give the Minister power to grant funding to approved organisations, such as advocacy services and the Community Visitors Scheme, to meet the objectives of the program.**

10.50 **Legislate outcomes.** The Commission takes the view that the outcomes which advocacy services and the CVS are aiming to achieve should be set out in the new legislation. This would be particularly useful for advocacy services. It would help to increase public awareness of advocacy services, entrench the program's commitment to advocacy services as an essential rights strategy and make it clear to all concerned what they are funded to do. The outcomes should be drafted in a way which does not frustrate the flexible and varied way in which advocacy services operate or their independence from the Department. **The Commission recommends that the legislation should set out the outcomes which advocacy services and the Community Visitors Scheme aim to achieve.** A suggested outcome of the Community Visitors Scheme is to improve the quality of life of older people receiving aged care services who have limited family and social contact and who may be at risk of isolation from the general community for social or cultural reasons or through disability. Suggested outcomes for advocacy services are

- to promote recognition of user rights by current and former recipients and potential recipients of aged care services, their carers, their representatives, the aged care industry, government and the broader community
- to help older people to exercise control over their lives, including to take independent action to exercise their rights and to overcome barriers to their full and active participation in society
- to help establish policies, practices and structures in aged care services which enable people to exercise their rights.⁹⁹⁵

10.51 **Rights of entry and associated duties.** The rights of advocates and community visitors to enter a service should be clarified in the new legislation. It is now unclear whether advocates can enter a service on their own initiative. The legislation should make it a condition of a service receiving recurrent funding that they allow entry to people representing Commonwealth funded support services, such as advocates and community visitors, during reasonable hours. Entry should not be conditional on the resident requesting the service. Advocates should be able to enter the service on their own initiative. Service providers should also be under a duty to help representatives of these support services to achieve the stated outcomes of the support service. **The Commission recommends that it should be a condition of receiving Commonwealth aged care funding that services allow entry to people working for Commonwealth funded support services, such as advocates and community visitors, during reasonable hours. Representatives of support services should be able to enter services at the request of consumers or on their own initiative to perform activities designed to achieve the stated service outcomes. There should be a duty on service providers to provide reasonable help and facilities to enable representatives to achieve the stated outcomes of the support service.**

Participation of older people in the management of services

Current strategies

10.52 The Commonwealth encourages older people to participate in decisions about the way their service is run in a number of ways.

- **Outcome standards.** Nursing home outcome standards state that nursing homes should have policies, developed in consultation with residents, which enable residents to make decisions and exercise choices regarding their daily lives. They suggest encouraging residents to participate by using methods that include residents' committees, informal meetings and suggestion boxes. Hostel outcome standards require management and staff to give each resident (or the resident's representative) a chance to participate in making decisions about the hostel which affect the resident's lifestyle. One of the Care Package service standards says the service provider must consult with the recipient or his or her representative in the development of a care plan that meets the individual's assessed needs.
- **Formal agreements.** The model nursing home agreement requires proprietors to help establish a residents' committee if that is what residents want. The formal agreement for people getting Care Packages must set out consumers' rights to have a say in decisions service providers make about the kinds of services they are to receive.

- **Charters** . Charters of rights and responsibilities for residential care state that residents have the right to be consulted about, and to choose to have a say in, decisions about living arrangements.

The discussion paper

10.53 The discussion paper asks whether the current legislative provisions are adequate to ensure that, as far as possible, residents of nursing homes and hostels and people receiving Care Packages are involved in management decisions that are likely to affect them. It also asks how the new legislation should provide for this participation.

What submissions say

10.54 **Current requirements are adequate.** Some submissions believe the current requirements are adequate.⁹⁹⁶ One submission says 'I invited a resident to be on the selection panel for the employment of a charge nurse - a pivotal position which is critical for residents'.⁹⁹⁷ People report positive stories of the success of resident committees.⁹⁹⁸ Residents in focus groups living in facilities with effective mechanisms for participation strongly endorse resident participation.

From the outset we made ourselves really vocal ... from a residents' committee we spread out like an octopus - there's a menu committee and an activities committee and a welcoming committee - a whole lot of ways to get people involved if they want to be, and if they don't want to be ... well that's fine. That's the choice they have - but they have a choice. (*hostel resident*)

The attitude of staff is critical to the success of these mechanisms.

We've got a wonderful person in charge. And she really takes notice of [the group]. If she can't get something done she tells you. She talks to you. (*hostel resident*)⁹⁹⁹

10.55 **Barriers to participation.** Many submissions say that the current legislative provisions promoting participation in decision making are inadequate.¹⁰⁰⁰ However, getting consumers involved can be difficult. Submissions identify the following barriers to participation.

- **People may lack 'capacity'.** Some submissions say that the large number of people in nursing homes with dementia makes it difficult to run such things as residents' committees.¹⁰⁰¹ A focus group participant said

There wouldn't be what 4 or 5 of us out of 100 here who could do it, who could work in a residents group, who you can have a normal conversation with. Most of the people here don't know what's going on. (*nursing home resident*)¹⁰⁰²

However, the Alzheimer's Association (Australia) says friends or family members of people with dementia are usually not given the opportunity to be involved on residents' behalf. It says 'the identity of a resident's primary representative (similar to the 'person responsible' outlined in New South Wales guardianship law) should be clearly defined and a requirement that they be consulted should be included, at least in the principles attached to the legislation'.¹⁰⁰³ Submissions say that hostel residents' committees seem to work better.¹⁰⁰⁴

- **Barriers presented by services.** Some submissions say that some service providers actively discourage participation in decision making.¹⁰⁰⁵ In one case a resident's request to sit on the Advisory Board of a nursing home was denied.¹⁰⁰⁶ Other submissions point to the tendency to patronise older people¹⁰⁰⁷ or to treat them as children.

10.56 **Encouraging participation** . Submissions suggest ways to improve participation in decision making. They also make suggestions about what legislation should say about it.

- Residents should be given the help they need to be able to participate effectively.¹⁰⁰⁸
- An education strategy should be developed for staff and residents to promote participation.¹⁰⁰⁹
- Residents should participate on boards of management.¹⁰¹⁰

- Older people from the community should be appointed to management committees to provide an outside and often enlightened perspective.¹⁰¹¹

The legislation should focus on outcomes because the types of strategies required may differ depending on the service.¹⁰¹² Legislation should not be too prescriptive.¹⁰¹³ It should provide a broad framework requiring service providers to involve clients in decisions affecting their lifestyle.¹⁰¹⁴ One submission says the legislation should enable the setting up of a range of strategies which can help achieve the specified outcome.¹⁰¹⁵

The Commission's recommendation

10.57 It is very important to encourage older people to participate when decisions are made that affect them and the quality of service they get. This is particularly important for consumers whose home is a nursing home or hostel. The Commission recognises that services may find it hard to foster participation where older people have dementia or are very frail. It is concerned, however, that this is not used as an excuse for inaction. Not all older people wish to or have the capacity to participate in decisions about the service they receive. But social justice principles which support choice and control require that efforts be made to enable older people and their representatives to do so if they want. Opportunities for participation should be promoted by the program and services. The program should stress that participants can include consumers themselves, or their representatives, such as advocates, family or friends. It should also stress that service providers should give support and encouragement to consumer initiatives in this area and that service providers should not interfere in the operation of resident groups. Legislative provisions should not be too prescriptive because there are a range of strategies which could be used to achieve better participation outcomes. **The Commission recommends that the legislation should reflect the principle that older people should be encouraged and given every opportunity to have their say in decisions made by services which affect them. It should say that when consumers choose to be involved providers should allow and encourage that involvement. This principle should be set out in the outcome standards and charter and be an implied term of the contract between the service and the consumer.**

11. Information for consumers

Introduction

11.1 Ensuring that people have the information they need about aged care services is essential to achieve the goals of the Aged Care program. Information helps older people and their carers make the best decision about the type of care they need. It helps them get the services and rights they are entitled to and to do something about it if their legitimate expectations are not met. This chapter discusses the information needs of older people and their carers.

- It describes what information about aged care services is available, reports what submissions say about its adequacy, the appropriateness of its distribution and how it can be improved and makes a recommendation that the Commonwealth develop a coherent and comprehensive information strategy for older people and their carers about aged care services (para 11.2-10).
- It describes the information service providers are now required by legislation to give clients, reports what submissions say about what sort of information service providers should have to give clients and what obligation they should be under to do so and makes a recommendation (para 11.11-16).

Information about aged care services generally

What information is now provided

11.2 ***The Department provides information.*** The Department issues a variety of easy to read pamphlets, guides and booklets. It produces videos, cassettes, calendars, a newsletter and posters for older people and their carers about the kinds of aged care and support services available and about user rights. Some information is in big print. The program targets some information to ethnic communities. It has produced written information in 15 community languages and audio tapes have been translated into 13 languages. Education and information strategies are currently being developed to increase the level of information for both non-English speaking background and Aboriginal and Torres Strait Islander communities. The Department commissioned a report to help it to refine and revise its information strategy.¹⁰¹⁶ It is developing its national consumer information strategy in the light of the recommendations of this report.

11.3 ***State and Territory government and non-government organisations provide information.*** Some State and Territory governments and non-government organisations, such as the Carers Association, the Alzheimer's Association and the Council on the Ageing, also produce and distribute information about aged care services. In New South Wales, for example,

- the Combined Pensioners' and Superannuants' Association operates a Seniors' Information Line (sponsored partly by the Department of Community Services and partly by subscriptions)
- the Department of Aboriginal Affairs is developing a manual which lists services available to older people from Aboriginal and Torres Strait Islander communities.

Discussion paper

11.4 In its discussion paper the Commission asks a number of questions about the information needs of older people and their carers.

- Is the information that the Department of Human Services and Health (the Department) provides about aged care services for older people adequate? Is it distributed widely enough? If not, where should it be distributed?
- How should the information needs of older people generally, and people with special needs in particular, be better met?

What submissions say

11.5 Information distributed about aged care is inadequate. Nearly all submissions the Commission received on the issue say that the information provided by the Department is inadequate and not distributed widely enough. Comments in consultations support this view.¹⁰¹⁷ Submissions identify the following problems.

- **People look for information when they are in crisis.** People often do not look for information about aged care services until they need it and this may well be in a crisis, which is not the best time to take it in.¹⁰¹⁸
- **People do not know where to go for information.** People do not know where to begin looking for information or which level of government is responsible for what.¹⁰¹⁹ A focus group participant said

A lot of people don't even know about that sort of thing [aged services generally] unless they have a doctor who is prepared to steer them in the right direction. They never find out about it. (*hostel resident*)¹⁰²⁰

The information available does not cover all available options or tell people how to access them.¹⁰²¹ This means that people 'often have to contact 3 or 4 different organisations to receive the desired information'.¹⁰²²

Too many 'glossy' brochures. Information tends to be in written form or in glossy brochures, which is not necessarily the most effective way of communicating information.¹⁰²³

11.6 How information should be communicated. The Commission heard many enthusiastic suggestions for improving the Department's consumer information strategy. These include to

- use a variety of strategies rather than just relying on one¹⁰²⁴
- use locally produced information¹⁰²⁵ that is simple to understand¹⁰²⁶
- use the spoken word rather than written material¹⁰²⁷
- develop information that follows older people's experience of getting access to services¹⁰²⁸
- tell people where to get information if and when they need it¹⁰²⁹
- ensure information is relevant, accurate and up to date¹⁰³⁰
- computerise the information.¹⁰³¹

11.7 How should information be distributed? Submissions suggest a number of different ways to distribute information.

- **Get service providers to distribute information.** Many people favour GPs as an appropriate information contact point for older people and their carers.¹⁰³² GPs may be reluctant to give out information because they are overloaded with requests to provide information on a whole range of other matters as well.¹⁰³³ Submissions say information should be distributed by
 - aged care services¹⁰³⁴ including HACC services,¹⁰³⁵ Assessment Teams¹⁰³⁶ and advocacy services¹⁰³⁷
 - local government agencies¹⁰³⁸
 - hospitals¹⁰³⁹
 - chemists¹⁰⁴⁰
 - social workers¹⁰⁴¹

— community visitors.¹⁰⁴²

- **Getting information from one source.** Some submissions favour 'one stop shops'.¹⁰⁴³ The 'one stop' could be a widely publicised aged care information service,¹⁰⁴⁴ a toll free phone line¹⁰⁴⁵ or a shop front aged care information service from which all Departments with aged care responsibilities could distribute information.¹⁰⁴⁶ A focus group participant suggests a comprehensive guide.

We need something like a step by step guide which tells you how the whole thing fits together - who is who and who does what, and all the things that can go wrong. Maybe it could be a magazine format in the newsagents. You could see it and think that's just what I need. (*relative of a nursing home resident*)¹⁰⁴⁷

- **Social organisations to which older people belong could provide information.** Submissions suggest that information be distributed through clubs and other organisations that older people belong to, including Rotary and Lions' clubs, pensioners' and seniors' clubs and organisations, libraries, community centres and local churches.¹⁰⁴⁸
- **Publications which older people read.** Information on aged care could be placed in magazines like 'Age Pension News'¹⁰⁴⁹ and social security newsletters.¹⁰⁵⁰ Farming journals and local papers are suggested for rural areas.¹⁰⁵¹ On the other hand, the carers of older people are often isolated and do not have the time to read papers and magazines that could contain useful information.¹⁰⁵²
- **Mainstream media and notice boards.** Submissions say that the mainstream media, including press, radio (regional and community) and TV, should be used more.¹⁰⁵³ There should be broad based information campaigns to inform people about how to access aged care services.¹⁰⁵⁴ It was suggested to the Commission that the program use train station billboards as they do in Europe¹⁰⁵⁵ and that they put up mini-posters in shops and on community noticeboards.¹⁰⁵⁶

Information for people of non-English speaking backgrounds and Aboriginal and Torres Strait Islander communities

11.8 Information is inadequate. During consultations and in submissions the Commission was told that the Department should do more to ensure people from special needs groups get the information they need.¹⁰⁵⁷

11.9 How to provide information to these groups. The information should be culturally appropriate¹⁰⁵⁸ and well targeted.¹⁰⁵⁹ It should be interpreted in community languages, not just translated, so that it makes sense to the target group.¹⁰⁶⁰ It should be distributed using community groups.¹⁰⁶¹ Some submissions say that audio-visual material is superior.¹⁰⁶²

- **Information for people of non-English speaking backgrounds.** Lack of information is said to be the largest issue for non-English speaking background communities who may have little or no knowledge about what aged care services are available.¹⁰⁶³ Suggested strategies for improving this situation include
 - developing a special aged care information strategy in consultation with the relevant communities and the Office of Multicultural Affairs¹⁰⁶⁴
 - providing more written information, audio tapes and videos in community languages¹⁰⁶⁵
 - telling service providers about Interpreter Services¹⁰⁶⁶
 - using ethnic radio¹⁰⁶⁷
 - funding Assessment Teams to employ bilingual and non-English speaking background workers¹⁰⁶⁸ and to provide a list of ethno-specific services¹⁰⁶⁹
 - producing information on cassette tapes which provide information more flexibly and cheaply than pamphlets printed in 100 different community languages.¹⁰⁷⁰

- **Information for people from Aboriginal and Torres Strait Islander communities.** During consultations and in submissions the Commission was told that
 - radio and printed material may not be effective because of language barriers,¹⁰⁷¹ although radio, television and printed material can be useful if it is produced locally and uses local images that are easily recognisable to Aboriginal and Torres Strait Islander communities
 - the program should cater for the language needs of different communities¹⁰⁷²
 - information provided orally is often more effective than written information.¹⁰⁷³

Aboriginal focus group participants say Aboriginal community workers play a central role in providing them with information. Participants report that they rely on information networks such as the 'bush telegraph' and relatives.

I had relations in [name of town], they found out through their friends. (*Aboriginal hostel resident*)¹⁰⁷⁴

The Commission's recommendation

11.10 Older people, their carers, families and friends need comprehensive and comprehensible information to enable them to negotiate and access aged care services. People need information to know what services and entitlements are available and to make the best decisions about what type of care is most appropriate for them. The program has very recently begun to revise its information strategy. The results are yet to be seen. However, submissions indicate that older people and their representatives would benefit considerably from a more comprehensive, systematic and coordinated response to providing general information about aged care. The Commonwealth should have as one essential component of the Aged Care program an ongoing commitment to providing information. The Commission recommends that one of the objects of the new legislation should be to ensure that older people and their carers and service providers are informed about the care and other support services available to them and about their rights.¹⁰⁷⁵ **The Commission recommends that the program should develop a coherent and continuing national strategy for providing information about aged care to older people and their carers. The strategy should put into effect the Commonwealth's commitment to effective communication with the community about what it does in the aged care arena and what services are available. The strategy should be adequately resourced and regularly evaluated.** The information strategy should ensure that

- there is a flexible approach to meeting the different needs of the community, with a variety of strategies adopted
- at the very least, people know where to go for information when they need it, for example, a toll free national phone service
- information is available at a local level and is regularly updated
- the program uses a variety of media
- information strategies are first tested on the target audience to ensure effectiveness before they are more widely used
- where possible the Commonwealth works with the different levels of government to prepare information which provides the 'whole picture' of available services
- information is available at places where older people and their carers are likely to go for information, such as GPs, Assessment Teams, local government agencies, aged care services and consumer organisations such as the Australian Pensioners' and Superannuants' Federation and the Council on the Ageing

- the unique needs of people from special needs groups are taken into account, particularly their language and reading requirements
- people of non-English speaking backgrounds and people from Aboriginal and Torres Strait Islander communities are encouraged and helped to prepare their own material and their own strategies for their own communities.

People need information about the aged care service they use

Introduction

11.11 The current aged care legislation requires that service providers give certain information to consumers. Some important information must be set out in formal agreements. This includes information about what a service charges, how this is calculated, what services are provided, leave entitlements and when services can be terminated. Hostels and organisations providing Care Packages are also required to give regular information to consumers about their financial situation. The importance of giving information is also highlighted in the charters of rights and responsibilities and in outcome standards.

Discussion paper

11.12 The discussion paper asked questions about the information that service providers should have to provide to clients.

- What information about the service should services have to distribute to users and their representatives?
- What obligations should services have to distribute the information?

What submissions say

11.13 ***Service providers should give a range of information to clients.*** Submissions suggest a wide variety of matters on which service providers should be responsible for giving information. The matters include

- the criteria a person must meet to get a service¹⁰⁷⁶
- what services are provided¹⁰⁷⁷
- contractual obligations and conditions of entry¹⁰⁷⁸
- subsidies,¹⁰⁷⁹ allowances and benefits¹⁰⁸⁰
- the costs of services¹⁰⁸¹
- user rights¹⁰⁸² (one submission says that the format of the information should be devised by the program otherwise the information provided may be distorted)¹⁰⁸³
- quality control¹⁰⁸⁴
- leave and respite¹⁰⁸⁵
- confidentiality¹⁰⁸⁶
- complaints handling¹⁰⁸⁷
- information about other relevant aged care services.¹⁰⁸⁸

11.14 ***What obligation should services have to distribute information?*** Submissions support the proposition that the new legislation should continue to require service providers to provide certain information to consumers.¹⁰⁸⁹ One submission, while supporting various recent Commonwealth information strategies, says that the Department should monitor and enforce these obligations more effectively.¹⁰⁹⁰ Submissions suggest that the legislation should impose these obligations by

- making information provision a condition of funding¹⁰⁹¹
- enforcing them through standards monitoring, the charter and written agreements¹⁰⁹²
- imposing penalties or fines when a service does not provide the information.¹⁰⁹³

11.15 ***What focus group participants say.*** Focus group participants report widely varying experiences. Some long term residents talked about how little information they had got when they first moved in and how dramatically the situation has improved for new residents.

When I look back [on what I got when I moved in] I can say practically nil. This hostel has come a long way. I've just seen the draft of a new brochure, and all the things that we the residents have put in place are there. (*hostel resident*)

At [name of hostel] we have a pile of information given to new residents ... What has changed since the government has stepped in is that they use the government information. I do think its a good idea. (*hostel resident*)

As to what information service providers should give clients one resident commented

I would say everything. Everything that they know we need to know. This business of, 'we won't discuss that', or 'they're residents', or 'they're too aged they won't want to worry about it', it's not on. I just think it's most important you're told everything. (*hostel resident*)

A number of focus group participants asked for information about the amount of money that the Commonwealth contributes to the care they receive. Residents and their relatives seemed unfamiliar with how Commonwealth funding works and what services are supposed to be providing with those subsidies.

Clearly they do get government money but they just don't act as if they do. They behave as if its just them doing it out of charity or something. (*relative of nursing home resident*)¹⁰⁹⁴

The Commission's recommendation

11.16 Without adequate information about the way a service operates older people and their representatives cannot exercise their rights and responsibilities as consumers of a service. The current legislation, written agreements, outcome standards and charters require in a variety of ways that services must provide consumers with certain information. The new legislation should contain a clear obligation on service providers to provide simple, user friendly information to consumers about certain essential matters. Compliance with the obligation should be a condition of funding. The Commission's view is that the Department should produce, in consultation with the aged care industry and consumer groups, an information package for consumers and their representatives to help comply with this obligation. The Commission commends *Your Guide to Residents' Rights in Nursing Homes* as a model for such a package. The information should be clear and simple to understand. It should cater for the particular needs of older people and people in special needs groups. It should be available in a range of community languages. The service provider should be required to provide information to consumers and their representatives before they begin to receive the service. The program should encourage and help service providers to give consumers and their representatives information about other aged care services that might be available to them. **The Commission recommends that the legislation should, as a condition of funding, require all Commonwealth funded aged care services to provide information on specified matters to consumers and their representatives before they begin to receive the service. The information should cover at least the following matters**

- the nature and scope of the service
- what fees are charged, including any refund arrangements

- the quality control scheme which applies to the service and how to get a copy of the latest standards monitoring statement (if applicable)
- user rights and responsibilities
- leave and respite arrangements
- complaints mechanisms (internal and external) and other support services such as advocacy services and the community visitors scheme (if applicable)
- what funding the Commonwealth contributes toward the service.

The Department of Human Services and Health, in consultation with aged care industry and consumer groups, should develop a package of information to help service providers comply with this obligation. It should cater for the particular needs of older people and special needs groups.

12. Complaints about service providers

Introduction

12.1 Aged care service providers make decisions each day that affect older people who receive their services. If an older person is unhappy about a decision made by a service provider or wishes to complain about some aspect of the service, he or she should be able to do so quickly and easily. In this chapter, the Commission looks at the mechanisms that should be available to ensure that complaints older people might be dealt with effectively and with a minimum of fuss.

- It describes the internal complaints mechanisms services are required to have, sets out what submissions say about older people and complaints handling and makes recommendations about this (para 12.2-13).
- It describes existing external complaints handling mechanisms which consumers can use, sets out what submissions say about establishing an independent complaints body to deal with older people's complaints, looks at how to avoid duplication between Commonwealth and State and Territory complaints mechanisms and makes recommendations about these matters (para 12.14-26).

Service providers should be required to have an internal complaints mechanism

Current law and practice

12.2 Charters of residents' rights and responsibilities state that every nursing home and hostel resident has the right to complain and to take action to resolve disputes.¹⁰⁹⁵ The outcome standards for residential care and service standards for Care Packages require services to have procedures to deal with clients' grievances. The model residents' agreement for nursing homes also asserts the residents' right to complain and provides that a committee be established to hear disputes arising from the agreement if requested by the proprietor or a resident.¹⁰⁹⁶ The formal agreement for Care Packages must deal with the recipient's right to pursue complaints and appropriate mechanisms to do so. Commonwealth legislation does not require hostels to include provisions about complaints handling in resident agreements.

Discussion paper

12.3 In its discussion paper the Commission asks what kinds of complaints older people might have about nursing homes, hostels or Care Packages. The Commission asks what kind of procedures would make older people feel more comfortable about making a complaint and whether it should be a condition of funding that service providers have a satisfactory complaints mechanism to deal with complaints made by older people or their representatives. The Commission provisionally proposes that it should be a condition of funding for aged care service providers that they develop an internal grievance and complaints handling mechanism.

What submissions say about complaints

12.4 **Kinds of complaints people make.** Submissions indicate that older people may wish to complain about a broad range of issues affecting the quality of care they receive from service providers. Causes for complaint identified in submissions include

- the treatment of older people by staff of aged care service providers, including poor quality care, disregard of the older person's wishes and abuse¹⁰⁹⁷
- lack of involvement in decisions about treatment and care¹⁰⁹⁸
- the cost of services¹⁰⁹⁹
- the standard of accommodation in nursing homes and hostels, including lack of heating, few personal comforts, no access to telephones, poor hygiene, unhomelike environment and inadequate security¹¹⁰⁰

- lack of personal privacy, including the theft of personal belongings¹¹⁰¹
- the type, quality and amount of food served¹¹⁰²
- lack of activities and amenities¹¹⁰³
- lack of information about older people's rights and responsibilities and poor communication between staff and older people and their relatives¹¹⁰⁴
- lack of culturally appropriate services¹¹⁰⁵ and
- long waiting lists.¹¹⁰⁶

12.5 *Older people are often reluctant to complain.* The Commission was told in submissions and during consultations that older people receiving aged care are often very reluctant to complain¹¹⁰⁷ because

- they consider themselves fortunate to be receiving any aged care services at all¹¹⁰⁸
- they are frightened of reprisals¹¹⁰⁹ such as losing their place in a nursing home or hostel, having services withdrawn¹¹¹⁰ or being physically harmed¹¹¹¹
- fear of being labelled as a 'trouble maker' or 'whinger'¹¹¹²
- loyalty to a nursing home or hostel that is their home¹¹¹³
- belief there is little point in complaining because nothing will change¹¹¹⁴
- the internal complaints procedures in some aged care services are too complicated and legalistic¹¹¹⁵
- lack of English language competency.¹¹¹⁶

12.6 *Making people feel more comfortable about complaining.* Submissions and consultations identify factors that increase people's willingness to make complaints:

- active encouragement on the part of the service of residents to say what they think;¹¹¹⁷ a hostel resident who felt confident about complaining says

We have a phone number plastered over the complex where you can phone direct to them ... They really want to get it right. To make sure it's right. (hostel resident)¹¹¹⁸

- a procedure that is simple and informal¹¹¹⁹
- consumers know who they should talk to;¹¹²⁰ a nursing home resident says

We've got a chain of command here ... If you can't catch the Matron or the Deputy you can talk to the NUM or the sister on the floor. There's always someone who will listen to you if you've got a problem. (nursing home resident)¹¹²¹

- trust¹¹²² and confidence that complaints will be followed up and the outcome honestly reported back
- the availability of assistance, if necessary, for example, an advocacy service¹¹²³ or an interpreter.¹¹²⁴

What submissions say about requiring services to have an internal complaints mechanism

12.7 *Support for internal mechanism.* There was very strong support expressed in submissions and during consultations for the Commission's proposal that service providers be required, as a condition of funding, to develop mechanisms to deal with grievances and complaints made by older people.¹¹²⁵ People would feel more comfortable about expressing their grievances if there were an established procedure for dealing with complaints.¹¹²⁶ Submissions say that service providers should view complaints mechanisms as a useful

management tool to help them identify and address problems and deliver better services.¹¹²⁷ The few submissions opposed to the requirement that service providers have internal complaints mechanisms say that the current mechanisms are adequate and that the level of real complaint is too low to warrant such a measure.¹¹²⁸

12.8 *Suggested features.* Submissions make a number of suggestions about features that the mechanism should have, such as

- there should be an option to make anonymous complaints¹¹²⁹
- there should be an agreed time frame in which a complaint should be addressed and a procedure for what to do if it has not been addressed by then¹¹³⁰
- there should be follow up to make sure that things 'haven't slipped back'¹¹³¹
- the role of advocacy services should be enhanced and promoted¹¹³²
- community visitors could help residents in nursing homes to make complaints¹¹³³
- there should be safeguards to ensure that there is no retribution against the complainant¹¹³⁴
- it should include a dispute resolution committee of some sort.¹¹³⁵

12.9 *Need for information and consultation.* The Commission was told in submissions and during consultations that many complaints might be avoided if older people were informed and consulted about the care they receive and the decisions that affect them.¹¹³⁶ Submissions also say that service providers must give older people and their representatives more information about the service's complaints procedures including information about advocacy services and residents' committees.¹¹³⁷

12.10 *Guidance and training needed for service providers* . A significant number of submissions say that having guidelines for a model internal complaints mechanism would help service providers to develop a mechanism to suit older people's needs.¹¹³⁸ The Accommodation Rights Service NSW says that the Department should also provide training manuals, videos and trainers.¹¹³⁹ Other submissions suggest that the obligation to establish a complaints mechanism should be linked to funding, education and training programs to help service providers develop necessary dispute resolution skills.¹¹⁴⁰

12.11 *Administrative Review Council report.* The Administrative Review Council (ARC) recommends that Commonwealth funded service providers should be required to have a complaints mechanism to deal with any complaint that a consumer of the service may have.¹¹⁴¹ The minimum requirements are

- consumers must be given information about the processes for complaining
- privacy and confidentiality must be maintained to the maximum extent possible and consumers should be assured of this
- consumers must not be treated unfairly or services withheld if they complain and they are assured of this
- consumers must also be given information about the right to complain to someone outside the service
- where appropriate, information should be presented in a variety of formats and styles to maximise its usefulness and effectiveness to consumers
- review should be conducted by a person within the organisation who was not involved in the matter that the complaint is about
- complaints should be addressed within a reasonable time.

The Department of Human Services and Health (the Department) has, in broad terms at least, accepted the ARC's recommendations.

The Commission's recommendation

12.12 Identifying and resolving grievances that older people have about the aged care services they receive is an essential element in promoting the well being and rights of older people. It is in the interests of both the older person and the service provider that complaints can be addressed quickly and informally at a local level. For consumers of a service, it enables them to have a say about the care they receive. For service providers, it enables them to know whether they are providing the kind of service that its consumers wish to receive and, if not, how it can be improved. It is an important tool for improving the quality of care. All services should have a simple, informal procedure for handling complaints. It should be a condition of funding that they do. **The Commission recommends that the legislation require, as a condition of funding, that an aged care service should have to show that it has an established procedure for dealing with complaints made about the operation or management of the service by or on behalf of the older people who receive the service. The Department should issue guidelines setting out the essential features that complaints mechanisms must have. These features should include the minimum requirements recommended by the Administrative Review Council. The guidelines should outline a model or models that service providers can choose if they do not wish to develop their own.**

Service providers must inform older people of their right to complain

12.13 Older people and their representatives will not be able to exercise their right to complain unless they are fully aware of the complaints procedures available to them. Service providers should be required to inform older people when they enter residential care or begin to receive Care Packages of their right to complain and how to go about it, including their right to have the assistance of advocacy services or other representatives. Older people should also be made aware of their right to pursue their complaint beyond the service providers' internal mechanism if their grievance is not resolved. The Commission makes a recommendation about what information service providers must give older people in chapter 11 at paragraph 11.16.

There should be an independent complaints handling body

Current external mechanisms

12.14 **Commonwealth mechanisms.** The program has officers who take complaints in each State, Territory and regional office of the Department. They handle complaints about the quality of life and care of residents of nursing homes and hostels and people receiving Care Packages. Most complaints have implications for outcome standards and are investigated within this context. The way complaints are resolved depends on the nature of the complaint. The kind of action the program may take may includes

- providing information to complainants about user rights, including information about advocacy services
- encouraging complainants to use the service's internal complaints handling mechanism
- referring the complaint to other relevant bodies both within and outside the Department (for example, to State or Territory health complaint units)
- visiting the service or, in the case of a person getting Care Packages, his or her home to investigate and resolve the complaint using mediation, conciliation or education strategies.

Legislation does not specifically provide for complaints handling. Officers may use general powers of entry and investigation provided for in legislation to investigate complaints. Commonwealth funded advocacy services also play a role in receiving and resolving complaints.

12.15 **State and Territory mechanisms.** State and Territory government agencies may also handle complaints about aged care services. They include

- a nursing home and hostel inquiry service¹¹⁴²
- a community services commission¹¹⁴³
- health services commissions or units¹¹⁴⁴
- officers within the relevant State government department responsible for taking complaints.¹¹⁴⁵

Sometimes these agencies pass on complaints to the Department. Some States and Territories do not have complaints handling mechanisms.¹¹⁴⁶

Discussion paper

12.16 In its discussion paper the Commission proposes that there should be a mechanism external to the aged care service and the Department to deal with complaints older people may have about service providers. It asks what kinds of powers the body should have, whether it should be a new separate body or be established within the Commonwealth Ombudsman's office and how duplication with State or Territory mechanisms could be avoided. It asks what role there should be for Departmental complaints officers.

What submissions say

12.17 **Support for external body.** Submissions and consultations show very strong support for an independent complaints handling body.¹¹⁴⁷ Some say that it must be outside the Department if it is to be seen as truly independent.¹¹⁴⁸ Others say that a body independent of the Department would be more likely to have the skilled staff necessary to deal with complaints.¹¹⁴⁹ Any independent complaints body should be cheap, quick, accessible, fair, user friendly¹¹⁵⁰ and well known to older people.¹¹⁵¹ It would also need to be culturally appropriate.¹¹⁵²

12.18 **Powers of the new body.** Submissions are divided on the questions whether the Ombudsman should deal with complaints about aged care services or whether there should be a new body specifically established for the purpose.¹¹⁵³ All agree that the body should have the powers it needs to deal with disputes quickly and effectively. They say it should have a range of powers including the power

- to dismiss a complaint¹¹⁵⁴
- to investigate a complaint¹¹⁵⁵
- to summon witnesses and call for evidence¹¹⁵⁶
- to conciliate and mediate disputes¹¹⁵⁷
- to refer the complaint to another more appropriate body or agency such as the Department, the police or a relevant State or Territory body¹¹⁵⁸
- to make recommendations to the Department, consumers and service providers.¹¹⁵⁹

12.19 **Role of existing complaints officers.** Most submissions say that the Departmental complaints officers should continue to have a role

- advising and negotiating¹¹⁶⁰
- monitoring complaints for outcome standards purposes¹¹⁶¹
- handling complaints as they do now¹¹⁶²

- notifying the Department of any overall, recurring or systemic problems occurring in aged care services.¹¹⁶³

12.20 ***Additional body with power to make binding orders.*** Some submissions argue that the new independent body should have the power to make binding orders.¹¹⁶⁴ The Accommodation Rights Service NSW (TARS) goes further. It says there should be two layers of appeal. In addition to the independent complaints body there should be another body to which consumers should be able to go. This second body should have the power to make binding orders on the parties to the dispute. TARS takes this position because, in its view, there are some disputes that cannot be resolved except by the making of enforceable orders. It says this body should also be able to handle other matters that would normally be handled by a court, for example, contractual and other general law disputes. This is because, TARS says, courts are inaccessible for many older people. It asserts that the constitutional difficulties associated with setting up a federal body that is not a court and has these powers can be overcome.¹¹⁶⁵

12.21 ***Avoiding overlap with State or Territory complaints mechanisms***. Submissions suggest a number of ways to avoid duplication of State or Territory complaints mechanisms. Some submissions say that the Commonwealth should negotiate with the States and Territories to establish joint mechanisms.¹¹⁶⁶ A number support using State mechanisms where they exist.¹¹⁶⁷

12.22 ***ARC recommendation.*** The ARC recommends that a consumer who has not been able to resolve a complaint against a service provider should be able to take the complaint to the Commonwealth Ombudsman.¹¹⁶⁸ It recognises that this involves a major expansion in the role and functions of the Ombudsman and makes a number of recommendations to bring about these changes. The Department has told the Commission that it accepts the ARC's recommendations in principle.

The Commission's recommendations

12.23 ***There should be an independent complaints handling mechanism.*** Older people or their representatives should be able to complain to a body outside the service if the complaint has not been resolved or dealt with effectively by the service's internal mechanism or if they do not feel comfortable approaching the service with a complaint. They can now and should continue to be able to make the complaint to the Department. In many cases Departmental complaints officers will be able to resolve the complaint quickly and efficiently and with a minimum of trauma for the complainant. However, there should also be a complaints body that is completely independent of the Department to which older people or their representatives can go. The Department should continue to have complaints officers. They provide a focus and referral point for complaints. They may be able to resolve some complaints very quickly thus avoiding the need to go to the independent complaints body. They could also be a liaison point for the independent complaints body. Older people should be encouraged to use the service provider's internal mechanism and the Department's complaint handling procedures first. However, they should be able to go directly to the independent body if they wish to do so. **The Commission recommends that the legislation should provide for an independent, external body to deal with complaints made by older people or their representatives about Commonwealth funded aged care services. The Commission recommends that the existing Aged Care program complaints officers be retained.**

12.24 ***Body must be able to meet the complaints needs of older people receiving aged care services.*** The Commission acknowledges that the ARC has recommended that the Commonwealth Ombudsman should be the body which deals with consumer complaints against service providers. It is aware that the Department has accepted, in principle, the ARC's recommendations. The Commission does not, however, favour one kind of external body over another. It would prefer to focus on the necessary characteristics of the body. Whatever independent complaints body is chosen it should be able to meet the needs of older people and their representatives in an effective and sensitive manner. It should have the following features.

- ***Powers.*** It should have the power
 - to obtain information and documents and question parties to a dispute
 - to seek advice from or refer matters to relevant bodies

- to make recommendations to the Department, to service providers and to the complainant that certain action be taken.
- **Procedures.** It should
 - to be able to handle complaints quickly, informally and in a non-legalistic way
 - be affordable for users
 - encourage older people and service providers to resolve disputes between themselves in the first instance
 - have an emphasis on, and be staffed by people skilled in, investigation, mediation and dispute resolution policy and procedures
 - have procedures which take into account and correct power imbalances between parties, for example, by allowing advocates or other representatives where appropriate
 - keep the parties informed of proceedings
 - supply written reasons for its decisions.
- **Accessibility.** It should
 - be approachable and consumer focussed
 - take into account the cultural diversity of the Australian community, including any variations in approach to dispute resolution
 - as far as possible have a staffing profile which reflects the cultural diversity in the Australian community
 - be decentralised with a shop front and outreach approach
 - have strong community links
 - be accessible to consumers in rural and remote areas and people whose mobility is limited
 - regularly consult with community, the Department, industry and specialists including with people of non-English speaking backgrounds, Aborigines and Torres Strait Islanders, people with a disability and people in rural and remote areas at the establishment and operational phases
 - have a structure which demonstrates independence from recognisable government institutions
 - have a high profile in the community.

It should also have a data collection system which enables it to monitor trends and patterns in complaints. This will enable it to identify systemic problems and high risk service providers. The body should have procedures from the time of its establishment which enable it to evaluate its performance against these criteria. **The Commission recommends that the new legislation should give the independent body the powers necessary to deal with disputes quickly and effectively. The body should be able to make recommendations to services, the Department and the Minister. It should have an appropriate structure and appropriate procedures to ensure that it is able to meet the needs of consumers of aged care services.**

12.25 *There should not be an additional body with powers of a court.* The Commission does not recommend setting up an additional body with the power to make binding orders. This would add even

further to the complexity of review bodies in existence. The Commission does not recommend that the independent complaints body should have the power to make binding orders. The Constitution does not allow this. Only courts can exercise the judicial power of the Commonwealth. This includes the power to make binding orders.¹¹⁶⁹ The Commission does not think it is necessary to give consumers of aged care services a right of appeal from the independent complaints body to a court. Other recommendations of this Report provide for legislation to imply into contracts between service providers and consumers terms that would protect the rights of consumers. These are capable of enforcement by courts. The Department has a wide range of sanctions it can use to ensure that services comply with conditions of funding, including outcome standards. The Commission considers that an independent complaints body with the features recommended by the Commission will be able to deal with consumer complaints against service providers effectively.

12.26 *Duplication should be avoided.* In establishing an independent complaints handling body to deal with disputes involving Commonwealth funded aged care services, it is not desirable to duplicate State or Territory mechanisms which older people or their representatives can already use to resolve complaints. This would create two possible avenues for complaint and lead to confusion and a waste of resources. **The Commission recommends that where a State or Territory has an appropriate independent complaints body able to deal with older people's complaints about an aged care service provider, the Commonwealth should negotiate with, and where agreement is reached, authorise that body to deal with complaints about aged care service providers, including complaints under Commonwealth legislation. Where there is no State or Territory mechanism the Commonwealth should negotiate with that State or Territory to enable the Commonwealth body to handle complaints about aged care service providers which might otherwise be outside its jurisdiction.**

13. Information protection

Introduction

13.1 This chapter focuses on the protection of personal or sensitive information held by the Department of Human Services and Health (the Department) and service providers about older people.

- It outlines existing provisions protecting information about individuals and services held by the Department and describes the type of information the Department holds (para 13.2-16).
- It looks at what submissions say about how the Commonwealth should protect confidential information and makes recommendations about this (para 13.17-20).
- It outlines existing provisions regulating the protection of personal information held by service providers (para 13.21).
- It looks at what submissions say about how service providers should protect personal information and makes recommendations about this (para 13.22-30).

Information held by the Department about older people, services and service providers

Current law and practice

13.2 **General law.** Information held by the Department is protected in the following ways.

- **Privacy Act 1988 (Cth).** The Privacy Act regulates the collection, storage, use, access and disclosure by Commonwealth agencies of personal information, that is, information about people. The core of the Act is the Information Privacy Principles (IPPs) which outline federal agencies' responsibilities in relation to personal information they collect and hold. If a complaint is made about an agency breaching an IPP the Privacy Commissioner investigates the complaint and attempts to resolve it through conciliation or negotiation. If this is not possible the Privacy Commissioner can make a determination to declare that the agency should stop breaching the Act, do something to remedy the loss or damage suffered by the complainant or order the agency to compensate the complainant for any loss, including out of pocket expenses.¹¹⁷⁰
- **Crimes Act 1914 (Cth).** The Crimes Act prohibits the unauthorised disclosure of any information acquired by a Commonwealth officer in the course of his or her duties.¹¹⁷¹
- **Public Service Act 1922 (Cth).** Under the Public Service Act an officer may be disciplined if he or she takes improper advantage of, or discloses without authorisation, information acquired in the course of his or her employment.¹¹⁷²

The *Privacy Act 1988* (Cth) protects only personal information. The *Crimes Act 1914* (Cth) and the *Public Service Act 1922* (Cth) protect both personal and other information held by the Department. The common law duty of confidence provides protection against the release of non-personal information in some circumstances.¹¹⁷³

13.3 **National Health Act 1953 (Cth).** The *National Health Act 1953* (Cth) prohibits officers from releasing any information acquired by an officer in the course of his or her duties under the Act, except in accordance with their duties, powers or functions under the Act.¹¹⁷⁴ Disclosure is authorised in very specific situations. For example, the Commonwealth may

- disclose to the temporary operator of a nursing home or a nursing home adviser information about a service's compliance with outcome standards, what fees residents are charged and details of its financial affairs

- disclose financial and other information to the purchaser of an approved nursing home
- publish information about a nursing home's standards and about whether those standards have been met, but the information must not enable a resident to be identified
- release general information about approved nursing homes such as the number of vacancies or the amount of fees charged
- release information about proposed Ministerial action and any other information specified in the regulations.

If prohibited information is released the penalty for the offence is \$5 000 or two years imprisonment, or both. The *National Health Act 1953* (Cth) also makes it an offence to seek or receive unauthorised disclosure of protected information from officers of the Department. The penalty for this offence is two years imprisonment. There are no similar offences in the *Aged or Disabled Persons Care Act 1954* (Cth) governing hostels and organisations providing Care Packages.

Information the Department and other government agencies hold

13.4 *Information the Department holds about older people.* The Department holds information about people who receive Commonwealth aged care services, the carers of people who apply for the Domiciliary Nursing Care Benefit (DNCB) and the people they care for.

- When applying for DNCB carers supply personal information about themselves and the medical condition of the person they care for.
- When applying for approval for eligibility for a particular aged care service applicants provide information about their care needs, medical condition, financial status and living arrangements. This information is collected on a form filled in by an Assessment Team and then sent to the Department.
- When claiming and accounting for recurrent funding service providers give the Department personal information about their clients, including information about their health, financial circumstances, pension entitlements, family, age, race and disability.
- Officers of the Department visiting a service to check whether it has received the right amount of funding may find out personal information about older people. For example, they may look at medical records to see whether the service provider has correctly classified a resident. The Department may also have personal information about older people if they or their representatives complain to the Department.

13.5 *Information the Department holds about services and service providers.* The Department holds information about the services it funds and about the people who operate the services. Some of this information is on the public record. This includes the name and address of the service, information about the standard of care provided by the service provider and the fees charged. Other information is private and may be sensitive, for example, details of a person's criminal record. Officers of the Department may also be aware of sensitive commercial information, such as information about a service's financial viability. Services must provide this information to the Department to satisfy the Department that

- the service operator is a suitable person to run an aged care service
- the service is meeting the required standards of quality and
- the service has received the right amount of funding and spent it properly.

13.6 *Information about older people and aged care services held by related government agencies.* Assessment Teams collect a whole range of personal information about older people and their carers when they assess an older person to decide what kind of aged care service he or she is eligible to receive. Nursing

Home Fees Review Committees of Inquiry and Standards Review Panels may also hold a large amount of information about services providing nursing home and hostel care gathered in the course of conducting their reviews.

Discussion paper

13.7 In its discussion paper the Commission suggests that the current provisions in the *National Health Act 1953* (Cth) may be too restrictive. The legislation may prevent the release of information when it is appropriate to release it. The Commission asked for comments on the kinds of information the Department holds that should be protected and how it should be protected. It provisionally proposes that new legislation should protect personal information held by bodies it establishes, for example, Assessment Teams.

Submissions say existing provisions too restrictive

13.8 The Commission was told in submissions and during consultations that the current provisions in the *National Health Act 1953* (Cth) are too restrictive and inhibit the flow of information:

- the Department cannot tell a complainant the outcome of a complaint¹¹⁷⁵
- a service provider could not get information from the Department about the history of a resident who was inappropriately placed with the service¹¹⁷⁶
- people cannot get information about dementia specific facilities¹¹⁷⁷ or services that have staff of non-English speaking backgrounds¹¹⁷⁸
- Assessment Teams have difficulty getting information from the Department about available services¹¹⁷⁹ and getting information necessary to review clients;¹¹⁸⁰ one Assessment Team says that the restrictions have delayed their developing a nursing home waiting list¹¹⁸¹
- Aged Care Australia has not been given statistical and other data it asked for even though, in its opinion, individual persons and organisations would not be able to be identified from it¹¹⁸²
- co-operation between the Commonwealth and States or Territories is inhibited.¹¹⁸³

What submissions say - personal information

13.9 ***What personal information should be protected?*** Submissions say that all personal information held by the Commonwealth about older people should be protected¹¹⁸⁴ unless the information is commonly available¹¹⁸⁵ or the older person consents to the release of the information.¹¹⁸⁶ One submission notes the difficulty involved in getting the consent of a person with dementia.¹¹⁸⁷ Submissions say that particular attention should be directed towards protecting information:

- about a person's medical and financial status¹¹⁸⁸
- concerning a person who has a history of being subject to abuse¹¹⁸⁹ or a history of mental illness (unless non-disclosure of this information may cause harm to others)¹¹⁹⁰
- about a person's criminal record¹¹⁹¹
- about a person who has made a complaint,¹¹⁹² including a complainant who is a staff member¹¹⁹³
- about a person's sexuality.¹¹⁹⁴

13.10 ***When should the Department be able to disclose personal information?*** Submissions say the Department should be able to disclose information to someone other than the person to whom the information relates in some circumstances, for example if

- the person consents¹¹⁹⁵
- it is in the interests of the older person,¹¹⁹⁶ for example
 - in an emergency¹¹⁹⁷ where death or disability is likely and the older person would reasonably expect it¹¹⁹⁸
 - the information would help with providing appropriate care for the individual concerned¹¹⁹⁹
 - the information is necessary to deal with case management and cross program linkages (for example, where Care Packages are approved for people living in public housing and there may be a need to join personal housing and care details)¹²⁰⁰
- it is in the public interest,¹²⁰¹ for example
 - where the non-release of information may cause harm to the wider community¹²⁰²
 - where a service is not acting in the best interests of its clients and all other avenues to protect the public have failed¹²⁰³
 - where the information affects all who will be involved with the care of a prospective resident¹²⁰⁴
- information is required by the person's legal guardian,¹²⁰⁵ legal representative¹²⁰⁶ or person with an enduring power of attorney¹²⁰⁷
- information is required for a reasonable investigation by authorised investigators¹²⁰⁸
- there is a legal obligation to disclose the information.¹²⁰⁹

Submissions also suggest that general information should be able to be disclosed, for example, non-identifiable information for the purpose of research.¹²¹⁰ Information about residents' language and cultural backgrounds should be available to Assessment Teams and clustering projects so they can provide appropriate referrals to people of non-English speaking backgrounds.¹²¹¹ Finally, the Alzheimer's Association of Victoria says that the personal histories of residents with dementia should be able to be disclosed to staff with the consent of the primary or family carer of the resident because it is important that staff caring for the resident are aware of the history.¹²¹²

13.11 Submissions support having legislative provisions about the collection of information. Submissions generally agree that the new legislation should include specific provisions about the purposes for which the Department can ask for information, the kind of personal information it can ask for and the procedures that should be followed.¹²¹³ Some submissions do not support the proposal on the ground that it is unnecessary because it would duplicate the protection provided by the *Privacy Act 1988* (Cth).¹²¹⁴

13.12 Submissions support offences to deal with the unauthorised disclosure of personal information by Commonwealth officers. There is overwhelming support in submissions for an offence to deal with the unauthorised disclosure of personal information by Commonwealth officers for an improper purpose.¹²¹⁵ The Privacy Commissioner says that where information of a sensitive nature is involved, for example, information contained in a person's clinical records, more stringent controls than the IPPs should apply. He favours the creation of criminal offences for soliciting the release of information and for the wilful and unauthorised release of information. However, he does not favour including offences in every piece of Commonwealth legislation. Rather, there should be a series of offences that apply to all the activities of the Commonwealth and they should be located in one piece of legislation, such as the Privacy Act.¹²¹⁶ The NSW Privacy Committee says that, while serious and wilful disclosures not authorised by law should be an offence, offences for minor breaches of privacy are often unproductive and it may be better to focus on improving administrative procedures to minimise accidental and ill informed disclosures. The submission goes on to comment that if the bodies associated with the effective running of the Aged Care program (the program) are not subject to the same requirements as the Department the protection provided will be

significantly weakened and it may defeat the purpose of having stringent requirements for the Department.¹²¹⁷

13.13 *Protecting information about older people held by statutory and other authorities.* Most submissions support the Commission's proposal in the discussion paper that the new legislation protecting personal information should apply to all bodies established by legislation. It should, for example, apply to Assessment Teams.¹²¹⁸ On the other hand, some submissions are concerned that it might inhibit the operation of Assessment Teams and note that multiple assessments and a failure to share data which has been collected sometimes causes problems.¹²¹⁹ One submission claims the proposal is unnecessary as members of Assessment Teams are State officers and delegates of the Commonwealth Minister and already subject to privacy laws.¹²²⁰

What submissions say - non-personal information

13.14 *Small response and divided views on protection.* The Commission did not receive much response to its questions about non-personal information. Some submissions say that all non-personal information should be protected.¹²²¹ Others identify particular kinds of non-personal information that should be protected, for example

- specific financial data¹²²² or
- any information that could affect a person's or organisation's commercial advantage.¹²²³

Some submissions favour making non-personal information more generally available.¹²²⁴ One submission says that a prohibition on the release of commercial information is 'often a pillar to hide behind and prevents potential residents and their advocates having accurate information.'¹²²⁵

13.15 *Circumstances in which Department should be able to disclose non-personal information.* Submissions suggest circumstances in which non-personal information should be able to be disclosed, for example if

- the service provider consents¹²²⁶
- it is in the public interest to release the information¹²²⁷
- disclosure will not adversely affect the service provider or any consumers of the service¹²²⁸
- there is a genuine prospective purchaser of a facility¹²²⁹
- anonymous data is being collected for statistical analysis.¹²³⁰

One submission says the 'Department should have a protocol by which other government departments can gain access to information'.¹²³¹ Submissions say that information about a service provider should not be released if the privacy of an individual will be threatened.¹²³²

The Commission's views

13.16 *There should not be a blanket prohibition on release of information.* An individual or service provider who gives the Department information is entitled to expect that the Department will use the information in a responsible manner. Persons are entitled to expect that, generally speaking, the Department will only use information it collects for the purpose for which it was collected and that it will not use or disclose it in a way that will unjustifiably cause embarrassment or harm to the individual or organisation that supplied the information. For these reasons the Commission takes the view that legislation should deter unauthorised use of information. In some circumstances it should provide for the payment of compensation or damages to individuals or organisations unjustifiably harmed by the disclosure of information. However, the Commission is of the view that it is not appropriate that criminal law sanctions should apply to the unauthorised release of all kinds of information held by the Department.¹²³³ This blanket approach to the

release of information runs counter to the current trends in administrative policy towards more open government. It encourages undue caution on the part of Commonwealth officers and leads to the difficulties in getting information that should be available as referred to in submissions.

13.17 ***Personal information should be fully protected.*** Different considerations apply to personal information. In the Commission's view personal information should be protected by criminal sanctions. The unauthorised use or disclosure of personal information is likely to be contrary to the public interest and likely to cause harm. Personal information and its unauthorised use or disclosure can be clearly defined. A person is therefore able to know clearly what action in relation to what information would constitute a criminal offence. The law already recognises the sensitivity of personal information and the harm to individuals that disclosure and misuse can cause.¹²³⁴

13.18 ***Non-personal information should have some protection.*** The Commission is of the view that generally speaking non-personal information should be able to be disclosed in a wider range of circumstances than personal information. It is often less sensitive and there are more situations where it will be in either the interests of the program or individuals participating in the program that it is available. The Commission recognises, however, that there should be some protection for non-personal information and that a service provider may suffer harm as a result of the disclosure of non-personal information. Despite this the Commission considers on balance that criminal sanctions are not appropriate for the unauthorised release of information that is not personal information.

The Commission's recommendations

13.19 ***It should be an offence to disclose personal information.*** The Commission recommends that the legislation should create offences to deter the unauthorised use and disclosure of personal information held by the Department. The new legislation should provide that it is an offence

- to release or use, without authority, personal information held by the Department
- to attempt to obtain personal information the Department holds if release of that information is unauthorised and the person seeking it knows or should reasonably know its release is unauthorised
- to offer to supply or hold oneself out as being able to supply personal information the person is not authorised to supply if the person knows or should know that supply of that information is unauthorised.

These offences should apply to the officers of any bodies established under the legislation. This would include Assessment Teams. The Department should issue guidelines to Commonwealth officers detailing what types of information can be released in what circumstances. These guidelines should be updated regularly.

13.20 ***Minimising overlap in the information collected and record keeping requirements imposed on services.*** The Commission is concerned to ensure that Commonwealth and State or Territory authorities are not unnecessarily collecting the same information about aged care services or their clients or requiring service providers to duplicate record keeping. **The Commission recommends that the Department establish whether there is duplication in the collection and storage of information by Commonwealth and State and Territory authorities. If there is duplication, the Department should co-operate with State and Territory authorities to remove it.**

Information about older people held by service providers

Current law and practice

13.21 Service providers hold a wide range of personal information about their clients. The information includes medical records and needs, disabilities and details of cultural, religious, financial and family backgrounds. The only general protection against the unauthorised use or disclosure of personal information

about an older person held by a service provider is the limited protection offered by judge made law (called common law), which includes the laws of defamation, negligent advice, contract and the duty of confidence.¹²³⁵ The scope of this protection is inadequate and the law is difficult to enforce. Even if older people are aware that information about them is being misused, they may not be able to enforce their rights in the courts because of the cost, emotional and financial, involved. In most cases the breach has already occurred and damages in the form of money are often inappropriate to redress an invasion of privacy or damaged reputation. Aged care legislation provides some extra protection.

- **Outcome standards.** Outcome standards for nursing homes and hostels require that information about residents be treated confidentially.
- **Formal agreements.** The nursing home model agreement contains provisions that information about the resident's condition and care held by the service should be kept confidential.
- **Charters.** The charters for nursing homes and hostels state the right of each resident of a nursing home to personal privacy.
- **Conditions of funding.** An express condition of funding for Care Packages requires organisations providing Care Packages to treat information about clients confidentially.

A breach of these provisions allows the Department to impose sanctions against a service provider.

Discussion paper proposal

13.22 In its discussion paper the Commission proposes that service providers should be required, as a condition of funding, to ensure the protection of personal information they hold about the older people who receive their services. The Commission asks how this kind of personal information should be protected.

What submissions say

13.23 ***Examples of inappropriate requests for and use or disclosure of personal information about clients by service providers.*** Some submissions received by the Commission say that they know of circumstances where sensitive personal information about clients of aged care services may have been or has been inappropriately handled.¹²³⁶ Others say they do not.¹²³⁷ Examples of inappropriate handling of information include

- personal information being put up on whiteboards at a nurses station¹²³⁸
- service providers giving information to standards monitoring teams, mostly inadvertently, because they did not consider the information to be personal¹²³⁹
- board of management meetings being held in local clubs with residents discussed later over drinks at the bar¹²⁴⁰
- casework meetings in a dementia unit conducted in public areas¹²⁴¹
- information about the alleged behaviour of a resident being passed onto a number of nursing homes.¹²⁴²

13.24 ***Protection of confidential information should be a condition of funding*** . The vast majority of submissions say that it should be a condition of funding that service providers ensure that only essential information about older people is collected and that the information is stored, used or disclosed in a way that protects its confidentiality.¹²⁴³ There is support for the development of a code of practice for service providers.¹²⁴⁴ Submissions say, however, that 'essential' information needs to be clearly defined.¹²⁴⁵ There is concern that the line between essential information and excessive information will be difficult to draw.¹²⁴⁶ Submissions also note that the circumstances when information should be released should be clarified, as

there will be times when service providers need to disclose personal information about older people to ensure they get adequate care (for example, when a person moves to another service).¹²⁴⁷

13.25 Submissions support making it an offence for service providers to disclose personal information about older people. Nearly all submissions received on this issue agree that it should be an offence for a service provider to disclose personal information about older people.¹²⁴⁸ One submission says it should be an offence to disclose information concerning a person's medical or financial condition or other information even to their next of kin without first getting the resident's approval.¹²⁴⁹ Submissions say disclosure of personal information should be an offence in the following circumstances:

- the information relates to a person's HIV/AIDS status, sexuality or criminal record¹²⁵⁰
- the client suffers financial or personal damage as a result of disclosure¹²⁵¹
- the information is used for an improper purpose (for example, monetary gain or reward).¹²⁵²

One submission says it should not be an offence to disclose information where the information is required for the client's medical care and is provided in confidence to the treating doctor or hospital.¹²⁵³ Some submissions express concern that such an offence would inhibit their ability to find out whether elder abuse is occurring¹²⁵⁴ and their ability to provide adequate care.¹²⁵⁵ The offence should not conflict with some State and Territory legislative requirements that service providers release certain information.¹²⁵⁶ The NSW Privacy Committee considers that focussing on good administrative practices is 'likely to be more productive than making an offence of every unauthorised disclosure'.¹²⁵⁷

13.26 Privacy Commissioner's view . The Privacy Commissioner supports giving protection to personal information collected and held by service providers. In his opinion the Privacy Act should include a set of principles that would be applicable to non-Commonwealth bodies. These principles would be general enough to apply to a number of sectors. More detailed rules, applicable to specific sectors, would be developed in codes of practice. There should not, in his view, be a piecemeal approach to privacy regulation outside the jurisdiction of the Privacy Act; rather there should be a uniform national response to increasing national and international concern among policy makers about information protection.¹²⁵⁸ The Commission agrees with this approach.

The Commission's recommendations

13.27 Personal information should be protected. The *Privacy Act 1988* (Cth) requires government departments and agencies to collect, store, use, access and disclose personal information in a way that ensures that the privacy of the information is protected.¹²⁵⁹ This protection should be extended to personal information held by Commonwealth funded services because

- the effect of release of personal information on an older person or his or her family or a carer is likely to be the same whether the information is held by a government agency or by a Commonwealth funded service (which may often hold information on behalf of the government or as a result of federally imposed requirements)
- as 'user rights' or 'consumer protection' is now a fundamental part of Commonwealth policy it is reasonable to expect organisations receiving Commonwealth funding to respect and implement that policy
- national consistency on information protection in aged care services is important as a matter of social justice.

The Commission recommends that the legislation require, as a condition of funding, that service providers collect, store, use and disclose personal information only in a manner that protects the privacy of that information. The Commission acknowledges that implementing this recommendation may have resource implications for services and the Commonwealth.

13.28 ***Compliance with Information Privacy Principles.*** The Information Privacy Principles (IPPs) form the core of the *Privacy Act 1988* (Cth). They govern

- methods used to collect and solicit personal information
- the storage and security of personal information
- access by individuals to their personal records
- the accuracy of records containing personal information
- the use of personal information.

The IPPs do not apply to private sector organisations. In the Commission's view there is no reason why they should not. In New Zealand the *Privacy Act 1993* (NZ), which is very similar to the *Privacy Act 1988* (Cth), applies to government and non-government agencies. Accordingly IPPs govern personal information about people in a variety of contexts, including dealings with health services, banks, insurance companies and any other business.¹²⁶⁰ Extending the IPPs to cover Commonwealth funded services, such as aged care services, would help to bridge the gap in the current law protecting information held by service providers. In their current form the IPPs are not appropriate for aged care services. With some modification, however, they would form a cohesive framework for the protection of personal information held by all services funded by the Department, including aged care services. **The Commission recommends that the legislation require, as a condition of funding, that aged care service providers comply with the Information Privacy Principles of the *Privacy Act 1988* (Cth) amended to make them suitable for aged care services. The amended principles should be developed by the Department and the Privacy Commissioner. They should be included in the legislation. The principles should cover the collection, storage, use and disclosure of personal information held by service providers.**¹²⁶¹

13.29 ***The Department should produce guidelines.*** These broad principles would form the basis on which more detailed guidelines applicable to the particular service type could be developed. Views expressed in consultations and submissions indicate that services are interested in having more detailed guidance about matters of confidentiality. The Department should develop these guidelines in consultation with State and Territory authorities, local governments, the industry and the Privacy Commissioner. The guidelines should include information about the following matters.

- ***Collection*** . The guidelines should give details on
 - what specific information a service should be able to ask for in its forms and the purposes for which it can ask for and use it
 - what forms used for collecting information should say about the purposes for which information is being collected, how it will be used and the circumstances in which it will be disclosed to other people.
- ***Storage and use.*** The guidelines should give details on
 - how long the information should be kept
 - what kind of storage is appropriate
 - who within a service should have access to what kind of oral and recorded information.
- ***Disclosure.*** The guidelines should give details on the circumstances in which a service may disclose what kind of information to what other people or agencies.

If the jurisdiction of the Privacy Act were extended, the Privacy Commissioner could endorse these guidelines. In the meantime, **the Commission recommends that the Department should develop specific**

guidelines on how services should comply with the privacy principles set out in the new legislation. The Department should develop a strategy for informing and educating service providers and consumers about these principles and guidelines. Developing and carrying out these strategies would have resource implications for the Department.

13.30 ***Review of freedom of information (FOI) legislation.*** The Commission and the Administrative Review Council are currently reviewing the Commonwealth's FOI legislation. The Commission is considering, among other things, about whether a person should have better access to information about himself or herself. It is also considering whether mechanisms it might recommend for protecting the privacy of information held by government agencies should also apply, in a modified form, to private sector organisations. The recommendations it makes are likely to be consistent with the recommendations in paragraphs 13.28 and 13.29 of this Report.

14. Funding service providers

Introduction

14.1 The Commonwealth funds organisations to provide services for older people. This chapter is about the funding process.

- It considers whether incorporation should be a precondition of an organisation being granted Commonwealth funding to provide aged care services and makes a recommendation that it should (para 14.2-6).
- It discusses the funding process generally and makes a number of recommendations that would make the process more straightforward, funding decisions more transparent, regulation of service types more consistent and the process more flexible (para 14.7-16).
- It considers whether there should be a single approved provider status for all organisations that wish to apply for funding to provide aged care services and makes a recommendation about this (para 14.17-21).
- It considers whether the approval in principle (AIP) process should be kept, makes a recommendation that it should and considers the criteria on which a decision to grant an AIP to an organisation should be made and the conditions of funding that should attach to an AIP (para 14.22-31).
- It considers what the categories of final funding approval should be and makes a recommendation about this (para 14.32).
- It discusses conditions that should be attached to capital funding approval (para 14.33-42).
- It discusses conditions that should be attached to recurrent funding approval (para 14.43-45).
- It makes a recommendation about funding special projects or initiatives (para 14.46).
- It describes the payment process and makes recommendations about it (para 14.47-53).
- It considers which funding decisions should be reviewable by the Administrative Appeals Tribunal (AAT) and whether Nursing Home Fees Review Committees should be kept (para 14.54-60).

Incorporation

Services do not have to be incorporated

14.2 Aged care services are not legally required to be incorporated before they receive Commonwealth funds. The Commonwealth does, however, encourage services to do so as a matter of practice and a majority of services are incorporated.

Discussion paper proposal

14.3 In its discussion paper the Commission provisionally proposes that nursing homes, hostels and organisations providing Care Packages should have to be incorporated as a precondition of approval as an aged care provider. The Commission asked whether incorporation should be required and, if so, what difficulties there would be for service providers who are not incorporated.

What submissions say

14.4 **General agreement with proposal.** Most submissions agree with the proposal that services should have to be incorporated before approval is granted.¹²⁶² Some submissions qualify their support. One agrees that

services should have to be incorporated but not until after they had been granted an AIP.¹²⁶³ Another submission agrees that incorporation should be required for all new operators, but that existing operators who have proven their ability should be allowed to choose whether to incorporate or not.¹²⁶⁴ Concern is also expressed about how the requirement to incorporate would affect individual carers as opposed to organisations¹²⁶⁵ and charitable organisations operating under the umbrella of local governments.¹²⁶⁶

14.5 *Difficulties service providers may face.* Submissions consider that the major difficulties for service providers who are required to incorporate would be cost,¹²⁶⁷ the complexity of the process,¹²⁶⁸ the time involved¹²⁶⁹ and the effect on taxation for private organisations.¹²⁷⁰ Submissions suggest that free, competent and independent advice on how to incorporate and the effects of incorporation would be useful.¹²⁷¹

The Commission's recommendation

14.6 It is in the interests of both the Commonwealth and the service provider that the body receiving Commonwealth funds be a corporation. For the Commonwealth the advantages include

- dealing with a single legal entity, rather than a group of individuals
- requirements that corporations, except certain exempt proprietary companies, produce and publish audited accounts.

For the service provider the main advantage is that incorporation gives the owners of the corporation some protection against personal legal liability for the organisation's debts or damages for negligence or breach of contract. Non-profit organisations can incorporate easily and relatively cheaply in every State and Territory under the local Associations Incorporation legislation. Religious organisations may also be able to incorporate in each State through their own Act of Parliament. **The Commission recommends that service providers should have to become incorporated as a precondition of being granted approved provider status.** The Commission recognises that this will involve expense for profit making organisations wishing to provide aged care services.

The funding process generally

Existing law and practice

14.7 There are now two separate Acts regulating nursing homes, hostels, Care Packages and the Domiciliary Nursing Care Benefit the *National Health Act 1953* (Cth) and the *Aged or Disabled Persons' Care Act 1954* (Cth). A large amount of delegated legislation as well as funding agreements between the service provider and the Minister also contain essential information and provisions. A person who wants to use the legislation to find out how to get capital funding to build a nursing home, for example, must go through both Acts and a maze of delegated legislation and principles. Broadly speaking, an organisation seeking funding to provide an aged care residential service must now apply for approval in principle and then apply at a later stage for final funding approval. There are certain grounds on which decisions are made. Conditions are attached to approval. This process is regulated differently depending on the type of aged care service and type of funding. Sometimes there is little consistency in the way approvals are characterised, in the grounds for decisions and in the conditions attached to approval. Sometimes there is no reason for the differences because the Commonwealth is concerned to consider and regulate the same types of matters for each service or approval type.

The funding process should be more straightforward

14.8 *Discussion paper.* In its discussion paper the Commission sets out a provisional funding structure that it had developed in consultation with the Department of Human Services and Health (the Department) that was, in its view, clear and simple. The steps a service provider would take to receive Commonwealth funding under the proposed structure would be

- approval as an approved provider

- approval in principle
 - for recurrent funding
 - for capital funding
- approval for capital funding
- approval for recurrent funding
- approval for additional funding, including
 - capital assistance for nursing homes
 - additional recurrent funding for nursing homes
 - establishment grants for Care Packages.

An organisation could apply for some or all of these approvals, depending on the type of funding sought and the type of aged care service to be provided. The discussion paper asks if the provisional structure would meet the needs of service providers. Most submissions that address this issue say that it would.¹²⁷²

14.9 *The Commission's recommendation.* Since the discussion paper was published, the Department has further simplified the provisional funding structure to treat approvals for additional funding as approvals for capital funding. The effect of this is to eliminate the last step of the provisional structure. The Commission agrees with the further simplification. **The Commission recommends that the new legislation should set out a clear, simple structure for the approval process. The steps in the process should be**

- **approval as an approved provider**
- **approval in principle**
 - **for recurrent funding**
 - **for capital funding**
- **approval for capital funding**
- **approval for recurrent funding.**

Funding decisions should be transparent

14.10 In its discussion paper the Commission provisionally proposes that the new legislation should set out clearly matters that affect the rights and obligations of service providers. This helps better decision making and makes the decision making process more transparent. Matters that should be set out in the legislation include

- the grounds on which decisions are made
- conditions attached to approval, so that they are clear and known to all parties
- what action the Commonwealth can take if conditions are breached
- the applicant's review rights.

The legislation should also provide that when an application for funding is refused the applicant should be notified in writing of the reasons for the decision. The instrument of funding approval should state what conditions apply and include any additional conditions. The funding applicant should have to acknowledge

these obligations and any additional conditions imposed in writing. Consultations and submissions show general support for the Commission's proposals about how the funding process should be set out, made clearer and simplified in the new legislation. The Commission sees no reason to change its view. **It recommends that the new legislation should clearly set out matters that affect the rights and obligations of service providers. Matters that should be set out in the legislation include**

- **the grounds on which decisions are made**
- **conditions attached to approval**
- **what action the Commonwealth can take if conditions are breached**
- **the applicant's review rights.**

There should be consistency in the regulation of service types

14.11 Underlying many of the proposals in the Commission's discussion paper is the need to promote consistency in the regulation of aged care service types. In particular, the Commission provisionally proposes that, where appropriate, there should be core, common grounds on which approval decisions are made and common types of conditions attached to funding. There should be special provisions where justified by the nature of the service type or the particular approval being sought. There was general acceptance of this proposal in consultation and submissions.¹²⁷³ The Commission remains convinced that the proposal is appropriate. It is of the view that, as far as possible, there should be consistency in regulation of service types.¹²⁷⁴ The lack of consistency in regulating services makes it difficult to develop more flexible service models to meet individual care needs. It leads to administrative inefficiencies for regulators and service providers. **The Commission recommends that there should be common grounds of approval and conditions of funding for all types of services (nursing homes, hostels and Care Packages), unless the particular nature of the service type justifies different grounds for approval or different conditions.**

There should be flexibility in the funding process

14.12 *Discussion paper.* The Department should be able to tailor services to meet the specific needs of a community. In rural or remote areas, for example, the population may not be large enough to support a nursing home. In the discussion paper the Commission provisionally proposed that, if the circumstances warrant it, the Secretary of the Department should have power to waive or vary conditions of approval and to add additional conditions to those which normally apply to funding for nursing homes, hostels and Care Packages. It said the power should be exercised only with the agreement of the funding applicant or service provider and only when necessary to overcome barriers to providing services for a community or special needs group. In the discussion paper the Commission asks how greater flexibility in funding can be achieved.

- What barriers does the legislation present to providing aged care services in flexible or innovative ways?
- Should the legislation give the Secretary power
 - to waive conditions of approval
 - to vary conditions of approval
 - to add conditions of approval

with the agreement of the service provider to promote flexible and innovative service delivery?

- In what circumstances should the Secretary be able to make these decisions?
- How else can the legislation promote more flexible and innovative ways of providing aged care services?

14.13 *Legislative barriers to flexibility.* Submissions identify a number of legislative barriers to flexibility. They say the existing legislation is too rigid¹²⁷⁵ and not flexible enough.¹²⁷⁶ There is over-regulation.¹²⁷⁷ There is inflexibility in deciding on aggregate bed numbers¹²⁷⁸ which makes it difficult to provide innovative care in remote regions.¹²⁷⁹ The legislation is interpreted to discourage innovative design, for example, of hostel accommodation.¹²⁸⁰ Innovative services are funded as pilot programs and continue to be funded on a short term basis long after their usefulness has been clearly shown.¹²⁸¹ Nursing homes and hostels are funded under two separate Acts. This makes flexibility difficult.¹²⁸² The Commission was told there can be no flexibility until this division is overcome.¹²⁸³ It highlights what seems to be the main legislative barrier to flexibility separate funding regimes for different service types.¹²⁸⁴ This makes it difficult to create a continuum of care for residents.¹²⁸⁵ It creates problems for older people. For example, couples may have to be split up because they have different care needs and residents may have to move to a new facility because their care needs change. A hostel that wants to provide Care Packages has to give up its hostel funding and apply for a new approval to do so.¹²⁸⁶ There are inadequate links between different sources of funding, for example between funding provided by the aged care and housing programs.¹²⁸⁷

14.14 *Promoting flexibility.* Many submissions say legislative barriers to flexibility can be overcome by developing integrated funding. There should be flexibility across different programs as well as within.¹²⁸⁸ The Minister should have a discretion to fund innovative models.¹²⁸⁹ Legislation should focus on the type of care provided, rather than the institution where it is provided.¹²⁹⁰ It should be possible for people needing aged care to receive it, within limits, wherever they are living. For example a frail older person living with his or her spouse in a self contained unit adjoining a nursing home or hostel should be able to get the level of care that he or she would receive in the nursing home or hostel.¹²⁹¹ The legislation should refer to aged care services rather than nursing home care or hostel care.¹²⁹² The Commission was told that funding should be attached to a person, not a bed¹²⁹³ or a building.¹²⁹⁴ Several submissions say that funding should not be split between nursing homes and hostels. It should be possible to fund an aged care facility to provide for 7 or 8 categories of resident.¹²⁹⁵ One submission says that hostels should be funded according to the needs of the resident. If the resident needs nursing home care then the hostel should be funded to provide it, at least until the person can enter a nursing home.¹²⁹⁶ Some submissions focus on integrating care facilities. One submission says that it should be possible for residential sites to be used as multipurpose centres.¹²⁹⁷ Others says that a mix of aged care services should be allowed in the same building.¹²⁹⁸ Approvals should not specify individual rooms or units in which nursing home or hostel care is to be given.¹²⁹⁹ Funding should be flexible enough to allow unused hostel funding to be used to provide Care Packages possibly on a temporary basis.¹³⁰⁰ It should allow, for example, a service to change 40 nursing home places to 10 nursing home places and 30 Care Packages as the needs of the community change.¹³⁰¹ Organisations should be able to 'cash in' approved places to use the money to better meet community needs.¹³⁰²

14.15 *Support for the power to waive, vary or add to conditions of funding to promote flexibility.* Most submissions that respond to the questions whether the Secretary should be able to waive, vary or add conditions agree that he or she should.¹³⁰³ This would promote flexibility,¹³⁰⁴ and ensure better, innovative and user friendly services.¹³⁰⁵ One submission would give the Secretary the power to vary conditions but would give the power to waive to the Minister.¹³⁰⁶ Another would give the Secretary the power to vary and add conditions but not to waive them.¹³⁰⁷ Submissions say that the Secretary should be able to waive, vary or add conditions

- where the Commonwealth and the service provider agree that a more flexible approach is needed in the interest of the residents¹³⁰⁸
- in remote locations where it is necessary to meet special needs, for example, the needs of Aboriginal and Torres Strait Islanders.¹³⁰⁹

The circumstances in which the power should be exercised should be made clear so that decisions are not made arbitrarily or inappropriately.¹³¹⁰

14.16 *The Commission's recommendation.* The need for services to be funded in a flexible way was a recurrent theme of the consultations and submissions. The Commission acknowledges that the Department generally and the Aged Care program (the program) in particular are committed to more flexible funding and that the program funds organisations to provide flexible or 'special' models of aged care. Generally speaking

these are funded outside legislation. In the Commission's view the new legislation should promote not frustrate new and more flexible ways of providing services to older people. It should focus on the type of care, not where that care is provided, to help remove some of the rigid legislative and administrative barriers that the current legislation fosters. The new legislation should enable the program to tailor services to meet the particular needs of communities. **To promote the flexible funding of aged care services which better meet community needs the Commission recommends that the legislation should give the Secretary power, where the service provider agrees, to**

- **waive conditions attached to approval for an AIP or final funding approval**
- **vary conditions attached to an AIP or funding approval**
- **add conditions of approval.**

The legislation should set out the objectives for the use of the power and the circumstances in which the Secretary may exercise it. One circumstance might be that the location of a service would make it difficult to comply with a particular condition.

Approved provider status

Existing law and practice

14.17 An organisation providing an aged care service must be an 'approved operator' (for nursing home and hostel care) or an 'approved provider' (for Care Packages) to receive recurrent funding. The approval is designed to ensure that organisations providing aged care are suitable and will provide quality services. There are separate approval provisions for organisations providing each kind of aged care: nursing home care, hostel care and Care Packages. When making a decision to grant approval for each kind of care the Minister considers, among other matters, the applicant's relevant management experience, honesty and efficiency and the past treatment of older people using aged care services. The decision maker may also consider the past conduct of people occupying positions of significant responsibility within the organisation, such as company directors, service managers and directors of nursing.

Discussion paper

14.18 In its discussion paper the Commission provisionally proposes that the new legislation should create a single approval for all organisations wanting to provide an aged care service, called 'approved provider status'. It asks

- whether there should be one approval an organisation must have to apply for funding to provide nursing home care, hostel care and Care Packages and
- what criteria the Department should consider when it decides whether to grant approved provider status to ensure that older people receive quality care and community resources are protected.

This approval would be the 'ticket' an organisation needs to apply for funding to provide nursing home care, hostel care or Care Packages. An organisation would need this approval to get an approval in principle (AIP). It would be a condition attached to an AIP and final funding approval that a service provider keeps its approved status. An organisation providing more than one type of aged care service or operating an aged care residence providing both nursing home and hostel care would only have to apply for one approval as a provider.

What submissions say

14.19 **Approved provider status.** There is overwhelming support in consultations and submissions for a single approval for all organisations wanting to provide an aged care service.¹³¹¹ Some submissions qualify their support. Submissions say

- the criteria for approval should be sufficiently stringent¹³¹²
- the process should take account of local factors¹³¹³
- there should be an appeals mechanism open to those who are not approved.¹³¹⁴

14.20 *Criteria for approval.* Suggestions submissions make about the criteria that the Department should consider when it decides whether to grant approved provider status include

- the present criteria¹³¹⁵
- the applicant's history and experience in the industry¹³¹⁶
- the applicant's management skills and experience¹³¹⁷
- the expertise of key personnel in the applicant organisation¹³¹⁸
- demonstrated commitment to addressing the needs of older people and a demonstrated capacity to deliver quality services¹³¹⁹
- in the case of special needs groups, cultural relevance or demonstrable expertise in delivering quality services to the target group¹³²⁰ and community backing and approval for the project.¹³²¹

Some submissions say that the Department should investigate whether a service complies with the criteria and not accept it on trust.¹³²²

The Commission's recommendation

14.21 Creating a single approval for all organisations wanting to provide an aged care service would rationalise and simplify the procedure for approving organisations to provide services. Many organisations provide more than one kind of service. One approval would make it easier to provide different kinds of service from one premises. Any organisation approved to provide any service should have a satisfactory history in the industry (if any) and appoint responsible officers who have a record and reputation of good management, honesty and integrity. Having approved provider status would not guarantee funding of any kind. Approval for funding would be a separate step which has its own eligibility criteria, for example to test whether the applicant is suitable to provide nursing home care. The legislation should enable the approval to be time limited. **The Commission recommends that the new legislation should provide for a single approved provider status for all organisations that wish to apply for funding to provide aged care services. The criteria against which an application for approved operator status is assessed should be in the legislation in general terms. They should be matters that go to the suitability of an organisation to be involved in the aged care industry in any capacity. They should include**

- relevant management experience
- honesty and efficiency
- previous history in the industry, if any.

Approval in principle

Existing law and practice

14.22 Generally speaking, organisations that want funding to provide residential aged care first apply for an approval in principle (AIP). An AIP lasts for 12 months. The AIP holder may then apply for an extension, which may or may not be granted. It is subject to conditions. If the conditions are met the organisation will receive funding. There is no AIP for Care Packages. AIPs are an important part of the planning process. They allow services to commit themselves to future projects knowing that they will get funding if they

comply with the conditions attached to the AIP within the specified time period. There are circumstances in which an AIP may not be needed. These may include, for example, when an organisation wants to buy and take over the operation of an existing nursing home or hostel.

Should categories of AIP be the same for nursing homes and hostels?

14.23 ***Discussion paper proposal.*** There are now separate categories of AIPs for nursing homes and hostels in the legislation and the categories are different.¹³²³ This is so even though the purpose for which a service wants an AIP is usually the same, for example, to build new premises or upgrade existing premises. In its discussion paper the Commission provisionally proposes that there be two principal types of AIP capital and recurrent. The categories of AIP should be the same for nursing homes and hostels. There should also be an AIP for organisations applying for exempt nursing home status. The Commission asks

- whether the approval in principle process useful and
- whether the legislation should simplify the types of AIPs and make the categories the same for nursing home and hostel funding.

14.24 ***What submissions say.*** Nearly all the submissions that answer the question agree that the approval in principle process is useful.¹³²⁴ Modifications to the process they suggest include that

- the Commonwealth should be more involved with the organisation before the AIP is granted so that it can be reasonably confident the project is likely to succeed and should continue to give support after the AIP is granted¹³²⁵
- AIPs should only be given on the basis of a detailed proposal that should include details of location, site, building design and philosophy of care to ensure that facilities are built, staffed and administered in a way that will cater for all clients¹³²⁶
- AIPs should be given only to service providers who can demonstrate that they are in a position of actually completing the nominated project within an agreed timeframe¹³²⁷
- the AIP period should be longer.¹³²⁸

All submissions that address the issue agree that the legislation should simplify the types of AIPs and make the categories the same for nursing home and hostel funding.¹³²⁹

14.25 ***The Commission's recommendation.*** In the Commission's view the AIP process should be kept for residential services. An organisation that intends to begin operating a service must commit considerable financial resources to the project before it takes in its first residents. This is particularly so if the organisation is planning major capital works. The AIP process gives the service provider the security it needs to commit money to the project. If it is clear at the development stage that the service will receive Commonwealth funding banks and other lending institutions may be more willing to provide loan monies. However, in the Commission's view the AIP process should be simplified. The Commission's proposal in the discussion paper was developed with the Department and has received considerable support in consultation and submissions. **The Commission therefore recommends that there should be two principal types of AIP capital and recurrent. The categories of AIP should be the same for nursing homes and hostels. There should also be an AIP for organisations applying for exempt nursing home status.**

Criteria for deciding to grant a capital or recurrent AIP

14.26 ***The discussion paper.*** In its discussion paper the Commission lists a new set of criteria against which decisions to grant AIPs could be made. It developed these in consultation with the Department. They combine many of the existing provisions found in the legislation and principles with some new provisions designed to create a fairer and more efficient funding system. The kinds of matters which a decision maker must consider when making a decision to grant a capital or recurrent AIP for residential care might include

- ***planning requirements*** whether the project meets the needs identified by the aged care planning process
- ***the feasibility of the project*** including the anticipated project time frame, whether the organisation has acquired land (if applicable) and if so its suitability, and the past performance of the applicant where the organisation has a history in the aged care industry or other related industries
- ***the financial viability of the project*** including the feasibility of the organisation's fundraising plan, the financial position of the organisation and whether the service will continue to be viable
- ***the proposal for service delivery*** including entry criteria, service quality, user rights and how special needs groups will be provided for.

The Commission asks if the proposed new common criteria for granting an AIP for capital and recurrent funding are appropriate.

14.27 ***What submissions say.*** Submissions that address the issue agree that the proposed new common criteria for granting an AIP for capital and recurrent funding are appropriate.¹³³⁰ Some, however, express concern about the decision making process. One submission says that the Commonwealth does not test applications against grounds for decisions rigorously enough and that it relies too heavily on the information provided by the applicant.¹³³¹

14.28 ***The Commission's recommendation.*** In the Commission's view criteria for granting an AIP should aim to test the suitability of the project that is the subject of the application. If there is a separate process to approve providers the organisation will already have been approved as suitable to operate in the aged care industry (ie have approved provider status). The Commission considers that the common criteria as outlined in para 14.26 for granting an AIP for capital and recurrent funding proposed in the discussion paper are appropriate. **The Commission recommends that there should be common criteria on which a decision to grant a capital or recurrent AIP for nursing homes and hostels is made. They should include**

- **approved provider status**
- **planning requirements**
- **the feasibility of the project**
- **the financial viability of the project**
- **the proposal for service delivery.**

Common conditions attached to an AIP

14.29 ***The discussion paper.*** In its discussion paper the Commission lists examples of the kinds of conditions that might attach to a capital AIP. It developed these in consultation with the Department. They include

- ***premises*** - that in the opinion of the Secretary, the completed capital works will not prevent or make difficult compliance with outcome standards
- ***project feasibility*** - the construction project must be managed by people who are appropriately qualified (for example, architects or registered builders)
- ***financial viability*** - the organisation must have its share of construction funds (including borrowings) available and the organisation and project must remain viable in terms of construction and the potential for a successful operation
- ***the protection of Commonwealth interests*** - the tender process for the selection of the project manager or builder must be competitive and the costs of the project must not be excessive

- **land** - the land must be acquired and be in a suitable location and, where the land is leased, the organisation must have sufficient tenure.

The Commission notes that many of the conditions attached to a recurrent AIP are the same as the conditions of the capital AIP. It asks if the proposed new conditions attached to an AIP are appropriate.

14.30 ***What submissions say.*** Generally speaking, submissions that address the issue agree that the proposed new conditions attached to an AIP are appropriate.¹³³² One submission suggests that the Commonwealth should satisfy itself of the matters proposed as conditions before it grants the AIP because, once the AIP has been granted, the successful applicant and the communities it serves will expect funding to be provided. The same submission also says that some 'selective tendering' should be allowed as some communities will want to use their own tradespeople where possible.¹³³³ Another submission suggests that the AIP holder should demonstrate the responsiveness and appropriateness of the service to the special needs of clients, including older people of non-English speaking backgrounds.¹³³⁴

14.31 ***The Commission's recommendation.*** In the Commission's view conditions attached to an AIP should ensure that the proposed project will be established and will operate as a viable concern. The common conditions proposed in the discussion paper are appropriate. **The Commission recommends that there should be common conditions attached to a capital or recurrent AIP for all services. They should include**

- **continuing approved provider status**
- **suitable premises**
- **project feasibility**
- **financial viability**
- **Commonwealth interests protected**
- **suitable land.**

Categories of final funding approval

14.32 An organisation does not receive money until it gets final funding approval. A new residential service or organisation providing Care Packages requires recurrent funding approval before it can begin to operate. In its discussion paper the Commission provisionally proposes that the legislation should set out three broad categories of final funding approval: capital approval, recurrent approval and approval for additional funding. Approval for additional funding included approval for additional capital funding such as capital assistance to build, rebuild or upgrade nursing homes and establishment grants for organisations providing Care Packages. It also included approval for additional recurrent funding for nursing homes. Following further consultation with the Department the Commission is persuaded that this could be further simplified. **The Commission recommends that there should be two broad categories of final funding approval:**

- **capital approval**
- **recurrent approval.**

Final funding approval is subject to conditions. The Commission did not list examples of conditions that might attach to a funding approval in its discussion paper. Conditions of funding should ensure that the interests of consumers and the Commonwealth are met. What these conditions might be are discussed in the following paragraphs.

Conditions of capital funding approval

Existing law and practice

14.33 The Commonwealth provides capital funding to help non-profit organisations buy land and buildings, build, demolish, rebuild or upgrade premises and to purchase equipment. The applicant must hold an AIP. The Commonwealth also gives funding to non-government nursing homes (primarily to private for profit organisations) to help them build or rebuild new premises or upgrade premises (capital assistance). A capital grant may be made under such conditions, not inconsistent with the *Aged or Disabled Persons Care Act 1954* (Cth), as the Minister thinks fit. The conditions are set out in an agreement that the organisation must enter into with the Minister.

Discussion paper

14.34 In its discussion paper the Commission considers at some length the difficulties the Commonwealth has when it wants to enforce its capital agreements. It notes that there is considerable uncertainty about the amount of money a service might be required to pay back to the Commonwealth if it stops operating. It provisionally proposes that

- all parties with an interest in a capital funded services (including the owner and lessor of the land on which it is built) should be subject to conditions designed to ensure that the service for which the funds are being provided will remain open as an aged care residential facility as long as the need for it exists
- the grant should be repayable according to a formula if a service closes within 30 years of the grant.

It asks a series of questions to prompt comments on these proposals.

What submissions say

14.35 ***Parties with an interest should be subject to conditions.*** There is broad agreement with the proposal that all parties with an interest in a capital funded service should be subject to conditions and obligations.¹³³⁵ Some submissions agree with the Commission's suggestion that 30 years is an appropriate period for capital funded services to be required to operate;¹³³⁶ others suggest periods ranging from indefinitely¹³³⁷ or as long as the need exists¹³³⁸ to 20 years.¹³³⁹ Some say that 30 years is too long because the life of a residential facility may be shorter and require upgrading before the 30 years are up.¹³⁴⁰ Submissions generally agree that the Commonwealth should, in appropriate circumstances, take out security over land on which a residential service is built¹³⁴¹ as long as this does not jeopardise viability¹³⁴² and that it is done consistently.¹³⁴³

14.36 ***How the amount of repayment should be calculated.*** There is broad agreement with the Commission's proposal that the grant should be repayable according to a formula if a service closes within 30 years of the grant.¹³⁴⁴ One submission describes it as 'a far better solution than presently exists' as long as the need for possible major refurbishment is taken into account.¹³⁴⁵ Matters that should be taken into account when deciding how much the Commonwealth should recover or whether to waive repayment include the

- length of time the service has operated viability of the business¹³⁴⁶
- capacity to pay.¹³⁴⁷

The Commission's recommendations

14.37 ***Need for consistent legal policy in capital funding across the Department.*** The Department provides capital funding for many projects that fall within its administration. There has been little uniformity across program areas in capital funding policy in the past, for example, between the Aged Care program and the Children's Services Program. There is not a consistent approach to when or how the Commonwealth should recover its money or how much it should recover. One of the goals of the Commission's reference is to achieve consistency as far as possible across programs. The Department is formulating a standard set of

conditions which would apply to all services receiving capital funding from the Department. Where appropriate, there may also be program specific and project specific conditions. This approach will promote flexibility and help facilitate cross-program funding initiatives. **The Commission recommends that the legislation should provide a set of core provisions which apply to all services receiving capital funding from the Department. There should also be program and project specific conditions, where appropriate.**

14.38 *All parties with an interest in a capital project should be subject to conditions and obligations.* The Commonwealth must be able to ensure that community resources are protected and that a service will remain open for as long as the need for it exists. To this end it should impose conditions on all parties with an interest in a capital project. **The Commission recommends that all parties with an interest in a capital funded service should be subject to conditions and obligations. Conditions should apply to the owner of the land on which a service is being built and the operator of the service.** When the capital agreement is with the operator, the operator and the landowner should be subject to conditions.

- The operator should be subject to at least the following conditions
 - to make the service available for a period of at least 30 years
 - not to cease to operate the service without the approval of the Secretary
 - not to dispose of the operator's interest in the land or building, or encumber it, without the approval of the Secretary.
- The landowner should also be subject to specific obligations
 - to continue to make the land or buildings available to the operator, or whoever replaces the operator as operator, for at least 30 years
 - not to charge or otherwise give security over the land or buildings to a person other than the Commonwealth without the approval of the Secretary.

Funding recipients that are not operators should also be subject to conditions about terminating agreements if the operator does not comply with the terms of its agreement and about cooperating with the Commonwealth to find a new operator.

14.39 *The period of obligation to keep providing the service.* Capital funded services should be required to provide aged care services for 30 years. This 30 year period is recommended by the Commission because it balances the Commonwealth's need to get its money's worth with what is a reasonable obligation to impose on a service provider. It takes into account the often substantial amounts of money involved. The Commonwealth should be able to shorten this period where

- the proportion of money contributed by the Commonwealth is small compared to the entire project cost
- the life of the building is limited
- the need for the service is expected to be less than 30 years or
- an assessment of risk justifies this period being shortened.

If further capital funds have been provided during the term of the agreement it may be appropriate for the Commonwealth to extend the performance period. **The Commission recommends that the legislation should require that, as a general rule, capital funding agreements should impose an obligation to provide the service for which funds are being given for a period of 30 years. This period may be more or less depending on specified factors which should be clearly communicated to all parties.**

14.40 ***The Commonwealth should take security.*** The Commission takes the view that the Commonwealth should be able to take security over property when it makes a capital grant. This is necessary to protect public resources. It is a mechanism for ensuring that property is not sold without the Commonwealth's approval. The security might be a registered mortgage over land, a floating charge over assets, or other security. The Secretary of the Department should be able to refuse to approve a capital grant if security is considered inadequate. The Commonwealth should not be required to take security in every case, but should be able to assess the risks involved on a case by case basis. This assessment should be made fairly and impartially. **The Commission recommends that the legislation should require that as a general rule the Commonwealth should take security over the land on which a capital funded aged care service is built. The landowner should not be permitted to sell or otherwise dispose of the land or to mortgage it or give some other form of security over it without the approval of the Secretary of the Department.**

14.41 ***Repayment of the grant.*** It will not always be possible for the Commonwealth to achieve its goal of keeping aged care services open. A service may have to be shut or sold. An aged care service may no longer be needed in a particular area or the premises may become unfit to be an aged care service. In these circumstances the Commonwealth may wish to direct the service to repay the grant so as to recover the community's capital investment, or the funding recipient may want to repay the grant voluntarily. All parties to a capital project funded by the Department should be clearly notified in advance of the potential obligation to repay a capital grant. The instrument approving capital funding should clearly set out the circumstances in which the grant should be repaid and how the amount of repayment is to be calculated. **The Commission recommends that the legislation should give the Secretary power to require repayment of a capital grant in full or in part. It should prescribe matters to be taken into account in making this decision including**

- whether the need for the service still exists
- how long the service has been operating since the grant was made
- the age and condition of the building and whether there is a need to upgrade it
- the use to which the building will be put after it is sold (for example, whether it is to be used for another community service)
- the proportion of the Commonwealth's contribution to the value of the land or building.

The legislation should also provide that other matters to be considered may be specified in the capital funding agreement between the Department and the landowner or service operator. The decisions of the Secretary to require repayment should be reviewable by the Administrative Appeals Tribunal.

14.42 ***How much should be repaid.*** The aim of any repayment provision should be to keep services open as long as practicable. Repayment provisions should discourage services from ceasing to operate before the 30 year period has passed. There should be a particularly strong disincentive within the first 10 years. **The Commission recommends that the legislation should provide that the amount of capital funding to be repaid should reduce in accordance with the length of time the service has operated. The whole of the grant should be repayable if the service closes within the first 10 years of the 30 year period. The obligation to repay will decrease more rapidly in the last 10 years of the 30 year period. The obligation to repay will end after the service has operated for 30 years, unless it has been extended by additional funding.** This formula should be applied to the 'real' value of the grant, that is, the original grant adjusted upwards according to the consumer price index (CPI). Valuing a grant using the CPI is simple and the figures are publicly available. A service will know what its liability is at all times.

Conditions for recurrent funding approval

Existing law and practice

14.43 Recurrent funding of nursing homes is governed by the *National Health Act 1953* (Cth), delegated legislation and Departmental guidelines and principles. Funding is subject to statutory conditions set out in

the Act and such other conditions as the Minister may impose in specified circumstances. Funding for hostels is governed by the *Aged or Disabled Persons Care Act 1954* (Cth) (ADPCA), delegated legislation, Departmental guidelines and principles and a recurrent funding agreement between the Minister and the hostel operator. It is subject to general conditions of recurrent funding and a funding agreement. There is no restriction on what type of organisation can apply for nursing home or hostel recurrent funding.

Discussion paper

14.44 In its discussion paper the Commission proposes that conditions of approval, including conditions of funding approvals, should be set out in the legislation. It proposed that there should be common conditions of approval for all service types, unless justified by the particular nature of the service types. The response to these proposals has already been discussed in this chapter.¹³⁴⁸ The Commission did not consider what the conditions should be.

The Commission's recommendation

14.45 There should be common conditions attached to recurrent funding approvals for all types of aged care, as discussed above. **The Commission recommends that there should be common conditions which attach to all recurrent funding approvals. These should cover such matters as**

- **the approved provider status**
- **the service provider must provide the care for which approval was given**
- **the approval and classification of clients (where required)**
- **the number and type of approved aged care places**
- **priority of access requirements**
- **user rights and responsibilities**
- **obligations relating to quality care**
- **client fees that may be charged including extra charges**
- **the provision of information to clients**
- **complaints handling.**

Other funding

14.46 The program currently appropriates money annually to fund special projects. These include pilot projects, research and development and special initiatives such as the National Action Plan for Dementia Care. In the Commission's view it is important to keep the flexibility that the capacity to fund special projects gives. The legislation should give the Secretary the power to make a grant of money to a person or organisation, including a service provider, to further the objects of the legislation. The purposes for which such a grant might be made include

- establishing and helping flexible and innovative services
- improving the quality of aged care services
- improving the efficiency of aged care service operators
- promoting consumer rights

- disseminating information about aged care services and the role of the Commonwealth in supporting aged care services
- conducting research into the needs of older people and their carers.

The legislation should give the Secretary the power to impose conditions on the grant. These might include

- requiring reports to be given to the Secretary
- requiring that the grant be used as specified or repaid as specified.

The Commission recommends that the legislation should give the Secretary the power to make a grant of money to a person or organisation, including a service provider, to further the objects of the legislation by funding special projects or initiatives.

Payment of funding

Existing law and practice - nursing homes

14.47 ***Conceptual framework.*** Nursing home recurrent funding legislation expresses an out of date conceptual framework. It defines the key elements of the funding system as

- a 'fee' which is characterised as the total amount of funding which the Commonwealth estimates the nursing home needs to operate and comprises four components, three of which are SAM, CAM and OCRE
- the 'resident contribution' which is the fourth component of the fee and the maximum amount a service can charge a resident
- the 'benefit' which is the amount the Commonwealth pays a service and is equal to the difference between the fee and the resident contribution.

Neither the Commonwealth nor the resident pays the 'fee'. This framework reflects the history of the program. For many years all operating costs were reimbursed by the Commonwealth. A fee was set for each nursing home which determined the amount paid by both the Commonwealth and the client. In 1987 a new funding system was introduced. What the Commonwealth now pays is determined by criteria which are uniform for all nursing homes. As a result the fee concept is no longer relevant.

14.48 ***The current provisions are difficult to follow.*** The *National Health Act 1953* (Cth) and the delegated legislation made under the Act contain a maze of provisions which regulate the process the Department follows to work out how much a service should be paid.¹³⁴⁹ Provisions are not located in one place but scattered throughout the Act and delegated legislation. The principles are very long and complex. This is partly because they express mathematical formulae in written form. Some of the terms used are technical and do not appropriately describe what is being regulated. In practice the aged care industry relies on circulars produced by the Department which set out how the payment process is regulated by the legislation.

Existing law and practice - hostels and Care Packages

14.49 For hostels the recurrent subsidy payable is determined on the basis of the resident's financial status and the assessment of the resident's level of care needs. Different rates apply to the provision of 'respite care services'. Hostels receive payment on the basis of 'hostel care services' (accommodation services) and 'personal care services' (daily personal care services) which they provide to residents. Hostel residents may be charged a refundable 'entry contribution' upon entry to the hostel and an 'ongoing fee' thereafter. There are protections in place to ensure that residents do not pay more than they are able. Organisations providing Care Packages receive funding at a flat rate determined by the Minister. People getting Care Packages may be charged an 'ongoing fee' which takes into account the recipients income.

Funding process should be set out clearly in the legislation

14.50 In its discussion paper the Commission proposes that the new legislation should set out in simple language matters central to the funding payment process. One submitter, who had spent 37 years in the banking industry, had never seen 'such a complex method of funding and the complexities being so great, and the bureaucratic processes requiring so much paper'.¹³⁵⁰ Support for the proposal is almost unanimous,¹³⁵¹ one submission describing it as 'essential'.¹³⁵² The proposal would make clear to service providers the extent of their rights and obligations.¹³⁵³ In the Commission's view, the proposal would, if implemented, increase efficiency by ensuring that service providers know how the process works. The proposal is consistent with the principle underlying a number of recommendations in this report transparency.¹³⁵⁴ For these reasons **the Commission recommends that the new legislation should set out for each type of aged care service**

- **how the amount of funding a service provider is entitled to is worked out**
- **how a service provider makes a claim for payment**
- **the processes the Commonwealth uses to check that the right amount of money has been paid**
- **when and how the Commonwealth recovers money or pays a service provider extra.**

The terminology used to calculate nursing home funding should be simplified

14.51 **Discussion paper.** In its discussion paper the Commission provisionally proposes that the new legislation should use simple terminology and include a simple explanation of the calculations used to determine how much a service is paid. It should not use the concept of a 'fee'. It should instead focus on how the Commonwealth works out what it actually pays to the service. It should regulate how much the nursing home resident pays by making it an obligation of funding that a service provider may not charge a resident more than an amount determined by the Minister.

14.52 **What submissions say.** Most submissions support the proposition that the terminology used to calculate nursing home funding should be simplified. A number of submissions agree with the Commission's proposal,¹³⁵⁵ at least as a basis for further consideration.¹³⁵⁶ Submissions say the conceptual framework should be in plain legal English and user friendly language¹³⁵⁷ and the legislation should use simple terminology and include simple explanations of the calculations used to determine how much a service is paid.¹³⁵⁸ On the other hand two submissions think that the fee concept should be retained; 'it is not perfect but it's the best we ever had'.¹³⁵⁹

14.53 **The Commission's recommendation.** The Commission is of the view that something as fundamental as formulae for funding should be straightforward and able to be understood by service providers. It accepts that the out of date and complex funding provisions have created difficulties for the Department and for some sections of the industry. Members of the industry should be able to rely on the legislation, rather than circulars, to find out their rights and obligations. **The Commission recommends that the new legislation should use simple terminology to describe the components of nursing home funding. It should include a simple explanation of the calculations used to determine how much a service is paid. It should not use the concept of a 'fee'. It should instead focus on how the Commonwealth works out what it actually pays to the service. It should regulate how much a person receiving nursing home care pays by making it an obligation of funding that a service provider may not charge more than an amount determined by the Minister.** This new approach will require the Department to pay funding based on its actual components rather than an amount worked out by reference to a fee. It would not mean that services are paid any less or any more than they get now.

Review of decisions in the funding process

Existing law and practice

14.54 ***Decisions reviewable by the Minister and then the AAT.*** There are a number of decisions in the funding process for which legislation now provides administrative review. The decisions are reviewable first by the Minister and then by the AAT. Broadly speaking, for nursing homes, hostels and Care Packages these include the decisions

- to refuse or revoke approved operator or approved provider status
- to vary, revoke or suspend recurrent funding approval
- to vary conditions attached to recurrent funding.

There are a number of other decisions affecting a nursing home's funding which are also reviewable by the Minister and the AAT. These include decisions

- to declare a nursing home to be in non-compliance with funding conditions
- to grant a service exempt nursing home status
- to allow an emergency admission to a nursing home
- to determine a 'notional fee' (make a decision about whether a service has been paid the right amount of recurrent funding).

14.55 ***Decisions reviewable by Nursing Home Fees Review Committees.*** Nursing Home Fees Review Committees review decisions by the Department about the amount of recurrent funding paid to a nursing home. They also review other decisions such as the decision to determine what a nursing home with exempt status can charge residents. Committees consist of three people who usually have financial and management skills and are appointed by the Minister. They inquire into, and report to the Minister on, whether the Department's assessment of how much should have been paid is right. A Committee's recommendation does not bind the Minister. Lodgment and processing fees payable by applicants may be refunded if the Minister's decision is wholly or substantially favourable to the service provider.

Discussion paper

14.56 In its discussion paper the Commission identifies decisions that should be reviewable by the AAT and those that should not be. In general terms decisions that are not final, do not directly affect the interests of service providers, are political decisions, involve competing claims for limited pools of funding or where the reviewing body can give no suitable help, for example, where a decision has already been acted on, should not be reviewable. Generally speaking, unless they fit into one of these categories decisions in the funding process should be reviewable because they affect the interests of a service provider. In the discussion paper the Commission provisionally proposes that a number of decisions should be reviewable by the AAT. These are

- the decision to grant approval as a provider
- the decision to extend the AIP period
- the decision to grant final approval to an AIP holder for capital and recurrent funding
- the decision to approve additional recurrent funding for nursing homes

- the decisions to vary conditions, impose additional conditions, extend a suspension of funding approval, revoke funding approval, defund a service after a declaration of non-compliance with standards and impose other sanctions
- the decision about how a recurrent funding formula is to be applied
- the decision to reclassify a nursing home or hostel resident
- the decision to alter the amount of recurrent funding paid to a nursing home.

It asks for comment on this proposal. It also asks if the Nursing Home Fees Review Committees of Inquiry should be kept.

What submissions say

14.57 ***Should decisions be reviewable by the AAT?*** Submissions are almost unanimous in supporting the Commission's proposal about the decisions that should be reviewable by the AAT.¹³⁶⁰ Some submissions qualify their support. One submission suggests that the proposal should be implemented for a limited time, say two years, and should be reviewed after that.¹³⁶¹

- ***Decision to extend the AIP period.*** One submission does not agree that a decision not to grant an extension to the AIP period should be reviewable and says that the AIP should be revoked if the provider is unable to meet its commitment.¹³⁶² Another says there should be review but there should be definite time limits for construction.¹³⁶³
- ***Decision to defund after declaration of non-compliance with standards.*** One submission does not agree with the proposal that the decision to defund a service after declaring it to be in non-compliance with outcome standards should be reviewable.¹³⁶⁴ Another says this decision should be reviewable only where there has been a concerted and ongoing effort made by the service provider to meet the outcome standards.¹³⁶⁵

14.58 ***Should Nursing Home Fees Review Committees of Inquiry be kept?*** Nearly half of the submissions that address the issue are in favour of the Commission's proposal that decisions currently reviewable by Nursing Home Fees Review Committees should instead be reviewable by the AAT.¹³⁶⁶ The main criticism of the Nursing Home Fees Review Committees is that a lot of time and money may be spent on preparing a case to be heard by a body that does not have power to decide an issue once and for all but has power only to make recommendations to the Minister.¹³⁶⁷ On the other hand, the AAT is more costly and the process long and drawn out.¹³⁶⁸

The Commission's recommendations

14.59 ***Decisions should be reviewable by the AAT.*** The Commission has not changed its view that the decisions it identified in the discussion paper as suitable for review by the AAT should be reviewable by the AAT. This is consistent with the principles articulated by the Administrative Review Council (ARC).¹³⁶⁹ **The Commission recommends that the following decisions should be reviewable by the AAT:**

- the decision to grant approved provider status
- the decision to extend the AIP period
- the decision to grant final approval to an AIP holder for capital and recurrent funding
- the decision to approve additional recurrent funding for nursing homes
- the decisions to vary conditions, impose additional conditions, extend a suspension of funding approval, revoke funding approval, defund a service after a declaration of non-compliance with standards and impose other sanctions

- the decision about how a recurrent funding formula is to be applied
- the decision to reclassify a resident receiving nursing home or hostel care
- the decision to alter the amount of recurrent funding paid to a nursing home.

14.60 *Nursing Home Fees Review Committees of Inquiry should not be kept.* There seems little reason to keep the Nursing Home Fees Review Committees. The ARC does not support keeping them.¹³⁷⁰ The Committees cannot make a final determination of an issue and do not enjoy widespread support from the industry. The AAT has the necessary skills and expertise to review funding decisions and, in the Commission's view, it is more efficient to have a single body responsible for reviewing all decisions. **The Commission recommends that decisions currently reviewable by Nursing Home Fees Review Committees should instead be reviewable by the AAT.**

15. Accountability

Introduction

15.1 This chapter considers ways to ensure that the substantial community resources the Commonwealth puts into the establishment and operation of aged care services are protected.¹³⁷¹

- It describes how services now account for funding (para 15.2-5).
- It describes what records services must now keep, reports what submissions say they should be required to keep and makes a recommendation (para 15.6-9).
- It describes the powers Commonwealth officers have to enable them to monitor services, reports what powers submissions say they should have and makes a recommendation (para 15.10-14).
- It describes service providers' duties of co-operation with Commonwealth officers, reports what submissions say they should be and makes a recommendation (para 15.15-19).
- It sets out what submissions say about whether service providers should have to notify the Department if they are in financial difficulty and makes a recommendation about this (para 15.20-22).

How do services account for funding?

The quality assurance approach

15.2 The Department is working towards a 'quality assurance approach' to financial accountability and service quality. This involves risk management. Objective risk factors are identified and applied consistently to determine which services are more likely to fail to comply with legislation. These services are then targeted for monitoring. Services that do not have risk factors are subject to less monitoring. As part of the quality assurance approach the Department has also adopted a communications strategy. The aim of the strategy is to work better with the aged care industry to improve service delivery.

Nursing homes

15.3 Nursing homes are paid recurrent funding monthly in advance. The Department gives each service a monthly claim form which lists all residents in the nursing home at the end of the previous claim period. The service amends the claim form by noting all variations during the current claim period. At the end of the financial year the service also fills out a form which gives the Department information about actual expenditure and accrued costs in some areas. Commonwealth officers periodically visit services to check that the right amount of money has been paid and it has been spent appropriately. The process used to check recurrent funding is called a validation and is similar to a tax audit. The Department determines the actual amount owing to the nursing home for the financial year in question. It characterises all payments made up until this time for that period as provisional only. If the actual amount owing is less than the amount paid in advance the Department may recover the difference as a debt. If the actual amount owing is more than the amount paid in advance the Department must pay the nursing home the difference. Departmental officers also visit nursing homes to check the quality of care provided and that the residents' care needs are correctly classified by the service.¹³⁷² Officers check relevant documentation prepared by the service provider at the time of the assessment. They may also talk to residents and staff. If officers find that a resident has not been properly classified they may vary a classification and therefore the amount of money the Department pays to the service.

Hostels

15.4 Hostel recurrent funding is paid 28 days in advance. The amount of the advance is equal to the amount calculated for the period before the current claim period. The amount of funding a hostel receives, generally speaking, depends on the care needs of residents, whether they are permanent or respite residents and

whether they are financially disadvantaged. The Department sends the hostel a claim form which contains the information for the last claim period. The service notes any variations on the form, including details of leave taken by residents. The Department may adjust the following payment by the difference between amount advanced and the amount actually owing. Commonwealth officers do not routinely visit hostels to check that the right amount of funding has been paid. They may visit if they become aware of a breach of funding conditions or to check that a hostel has set aside its quota of places for financially disadvantaged persons. Commonwealth officers also visit hostels to check service quality and the accuracy of resident classifications, in the same way as for nursing homes.

Care Packages

15.5 The amount of the first recurrent funding payment to organisations providing Care Packages is based on the organisations' estimate of the number of people who will be getting Care Packages in the first three months of operation, multiplied by the number of days in the quarter. Subsequent funding for Care Packages is then paid 28 days in advance, based on the number of clients receiving the service in the previous month. A formal claim is submitted every 28 days. Subsequent payments are adjusted in accordance with the actual number of recipients. Information provided by the service is similar to that provided by hostels. At the end of each financial year providers must submit an audited statement of payments and receipts certified by an accountant and a certificate of compliance with conditions of grant. Recurrent funding is calculated as a fixed daily rate for each client. Officers do not routinely visit services to check that the right amount of funding has been paid. They may visit if they become aware of a possible breach of funding conditions.

Record keeping

Current requirements

15.6 Aged care service providers are subject to different record keeping requirements.

- ***Nursing homes.*** The *National Health Act 1953* (Cth) requires nursing home proprietors to keep 'such records as will enable claims for Commonwealth benefits to be verified' and compliance with the conditions of nursing home approval to be checked. They must be kept for 7 years. In practice the Department requires services to keep all records, journals, reconciliations and working papers used to prepare information in the forms it has filled out. They may include staff rosters, duty statements and books of account. Those records and other documents relating to the operation of the nursing home must be kept at the nursing home or in a place approved by the Secretary. A former proprietor of a nursing home must also keep all relevant accounts and records for 12 months after ceasing to be the proprietor. The nursing homes capital funding agreement requires that proper records and books of account be kept and maintained by the funding recipient. The Department also requires services to keep detailed records about the care needs and classification of residents. These include initial assessment documentation, individual care plans, medical records and progress notes.
- ***Hostels.*** The hostel general conditions of recurrent funding require hostels to keep records about each resident and his or her care needs and the occupation of respite care places. Neither the general conditions nor the recurrent funding agreement require financial records relating to recurrent funding to be kept. The hostel capital funding agreement for hostels requires that proper records and books of account be kept and maintained by the funding recipient. In practice the records a hostel is required to keep include admission records and financial records which support a resident's status as a person who is financially disadvantaged.
- ***Care Packages.*** The general conditions for Care Packages provide that an organisation must keep its accounts and administrative records in accordance with the applicable company law or accounting standards. They require separate records relating to care needs to be kept for each person receiving Care Packages. In practice providers are expected to keep formal agreements between the service and clients, a client record containing details of assessment and services provided and documentation about claims.

Discussion paper proposal

15.7 In its discussion paper the Commission proposes that the legislation should impose on all service providers a duty to keep records. It says that service providers should have to keep

- records that show the service received the right amount of funding
- where appropriate, records that show that the service spent the money in accordance with the terms of the grant.

The Commission also proposes that the legislation should specify what types of records should be kept, who should keep them and where and for how long they should be kept. The Commission asks what types of records or classes of records service providers should be required to keep to ensure financial accountability.

What submissions say about record keeping

15.8 Submissions and consultations strongly support the Commission's proposal that the legislation should require that service providers keep records.¹³⁷³ Some submissions say that all service providers should have to keep full financial records detailing the receipt and expenditure of Commonwealth funds, similar to records required to be kept by commercial organisations.¹³⁷⁴ The Commonwealth should make it clear exactly what records or classes of records service providers should be required to keep¹³⁷⁵ and should only require service providers to keep records that are absolutely necessary for validation purposes.¹³⁷⁶ It is suggested that the records should be publicly available as an added accountability measure.¹³⁷⁷ Consistency in record keeping requirements across service types is seen as necessary.¹³⁷⁸ Concern is expressed, however, that the requirement to maintain records should not be too onerous or expensive so as to detract from the care received by consumers or from the service's flexibility.¹³⁷⁹ One submission considers that it is inconvenient for service providers to have to keep every record, including rosters and pay sheets, for seven years.¹³⁸⁰ During consultations it was suggested that the Department should provide training for service providers on how to keep appropriate records.¹³⁸¹

The Commission's recommendation

15.9 It is not possible to substantiate claims for funds or to account for them unless proper records are made and kept. Records enable the Commonwealth to verify that the service provider has received the money it was entitled to receive and that money given for specific purposes has been spent for those purposes. Service providers should have clear guidance about what records they should keep. They should be obliged to keep only those records that are necessary to assess whether or not the service has received the correct amount of funding, the funding is used properly, resident classifications are supported by appropriate documentation of resident care needs and the service provider is meeting the required standards of care. The obligation to keep records should be time limited. **The Commission recommends that the legislation should impose a duty on service providers to keep records. The legislation should give the Secretary power to specify what records or class of records service providers must keep, who must keep them, where they should be kept and the minimum time for which they must be kept (seven years for all service types). The legislation should provide that a former service provider must keep records in a place approved by the Department for a specified period after ceasing to be a service provider.**

Powers of Commonwealth officers

What powers do Commonwealth officers currently exercise?

15.10 The *National Health Act 1953* (Cth) gives authorised officers powers to enter nursing homes and inspect and copy records. If an officer believes on reasonable grounds that a person may be able to provide information about a nursing home the officer may also require a person to answer questions and produce documents. The *Aged or Disabled Persons Care Act 1954* (Cth), under which hostels and Care Packages are funded, contains no such powers. Organisations are required to allow officers to enter premises, examine documents and question staff under general conditions of funding and individual funding agreements.

What powers should officers have?

15.11 ***Discussion paper proposal.*** In its discussion paper the Commission proposes that the new legislation should give Commonwealth officers whose duty it is to inspect or monitor the operation of aged care services clear powers necessary to do so effectively.

15.12 ***What submissions say.*** There was considerable support during consultations and in submissions for this proposal.¹³⁸² Because of the large amount of public money involved adequate powers are necessary.¹³⁸³ The powers should be clear and unambiguous so that service providers know what are their obligations.¹³⁸⁴ They should be uniform for all officers and all aged care service types.¹³⁸⁵ However, some submissions express concern about the proposed powers. One submission says that giving Commonwealth officers powers of search and entry creates an impression that all service providers breach the funding conditions when, in reality, most comply.¹³⁸⁶ Another says that Commonwealth officers should not have the power to remove documents and that the power to question third parties is unwarranted.¹³⁸⁷

The Commission's views

15.13 Commonwealth officers should have the powers necessary to carry out monitoring functions effectively.¹³⁸⁸ The powers should not extend beyond what is necessary to check that a service provider has complied with requirements imposed by legislation. They should be clearly set out in legislation. There should be one set of standard powers available to Commonwealth officers whose duty it is to inspect a service, regardless of the particular task being performed. The Secretary to the Department should have to specifically authorise particular officers to use these powers. Officers should have to show identification before attempting to exercise these powers. In the Commission's view the legislation should confer the following powers on authorised officers.

- ***Power to enter premises occupied by a nursing home, hostel or organisation providing Care Packages.*** An authorised officer should be able to enter a nursing home, a hostel or premises occupied by a Care Package service provider during business hours or with the consent of the operator. Officers who wish to enter to conduct a standards monitoring visit or to verify resident classifications should be able to enter a nursing home or hostel outside business hours. They may wish to monitor whether outcome standards are being complied with during the night, for example, to check up on showering or bed times, or verify classifications by monitoring the care given to residents. Under the *National Health Act 1953* (Cth) s 42 an authorised person may enter a nursing home at any time.¹³⁸⁹ The Commission has considered whether new legislation should give officers a broad power to enter a nursing home or hostel at any time of the day or night. On balance it thinks that it should not. In the Commission's view, legislation should authorise officers to enter a nursing home or hostel for the purpose of monitoring standards or verifying resident classifications during extended hours. It suggests that these might be from 7 am to 7 pm, 7 days a week. It should provide for entry outside these hours only in the case of an emergency or where the officer has a reasonable suspicion that the health and well being of residents are seriously at risk. The legislation should not include an express power to use force to enter. Instead it should provide for the issue of a 'monitoring warrant'. This would authorise the use of 'reasonable and necessary' force if a magistrate is satisfied that it is reasonably necessary to enter a nursing home or hostel for the purpose of ensuring that the requirements of the legislation (including those relating to financial accountability) are being met and a recent request to enter, in writing, has been refused.
- ***Power to enter premises where records are kept with the Secretary's approval.*** If the Secretary of the Department has approved a place where records may be kept, authorised officers should be able to enter these premises during normal business hours or with the consent of the occupier.
- ***Power to enter other premises.*** An authorised officer should be able to enter premises where the officer reasonably believes records or information relevant to the monitoring exercise may be kept only with the consent of the occupier or with a search warrant. In the unlikely event that officers should have to enter the home of a person receiving a Care Package it should only be with the consent of the owner or occupier.

- ***Power to search for, direct production of, examine and copy documents.*** Officers should be able to search for, direct production of and examine documents that relate to compliance with the conditions of funding of a service. They should be able to copy documents. Once an authorised officer has entered premises he or she should have full and free access to the premises to conduct the search.
- ***Power to ask questions.*** Officers should be able to ask questions of the management and staff of a service and relevant third parties so that records can be explained. Officers should have the power to interview staff in the absence of management.
- ***Power to direct third parties.*** Often third parties may hold documents or information relevant to the administration of funding to an aged care service, for example, banks, accountants or suppliers of building materials. Where a Commonwealth officer believes on reasonable grounds that a third party may provide relevant information he or she should have the power to require, by written notice, that the third party answer any reasonable questions and produce any relevant documents or records.

The Commission's recommendation

15.14 The Commission recommends that the legislation should give authorised Commonwealth officers whose duty it is to monitor aged care services powers necessary to do so effectively. It should include powers

- to enter premises where or from where an aged care service is being provided, during business hours or with the operator's consent
- to enter a nursing home or hostel for the purpose of monitoring standards or verifying resident classifications during extended hours (for example, from 7 am to 7 pm, 7 days a week)
- to enter a nursing home or hostel at any time only in the case of an emergency or where the officer has a reasonable suspicion that the health and well being of residents are seriously at risk
- to enter a nursing home or hostel pursuant to a monitoring warrant that would authorise the use of 'reasonable and necessary force' (obtainable from a magistrate who is satisfied that it is reasonably necessary to enter the premises for the purpose of ensuring that the requirements of the legislation are being met and that a recent request to enter, in writing, has been refused)
- to enter premises where the Secretary has approved that records be kept, during business hours, or at any other time with the occupier's consent
- to enter other premises, with consent or pursuant to a warrant
- to search for, direct production of, examine and copy documents
- to ask questions of service operators, their staff and other relevant persons
- to direct third parties to answer questions or produce documents in specified circumstances.

Service providers' duties to assist Commonwealth officers

Current law and practice

15.15 The *National Health Act 1953* (Cth) and the funding conditions impose duties on proprietors of nursing homes to co-operate with Departmental officers visiting the nursing home. The duties include permitting inspection, providing relevant information, obeying instructions and answering questions. The *Aged or Disabled Persons Care Act 1954* (Cth) does not impose any duties of co-operation on proprietors of hostels or providers of Care Packages. The general conditions for hostels and Care Packages require service providers to permit Commonwealth officers to inspect premises and to provide assistance and information to officers.

Discussion paper

15.16 In the discussion paper the Commission proposes that service providers should be subject to specific duties of co-operation with Commonwealth officers who are visiting the service or examining records to ensure that the service provider is observing the proper standards of care and financial accountability. The duties would complement the powers proposed for Commonwealth officers and should include duties

- to help and co-operate with Commonwealth officers conducting a service visit
- to allow entry to Commonwealth officers to conduct a service visit, examine records or ask questions during specified hours
- to answer questions
- to obey authorised directions
- to provide information
- to keep the Department informed of changes that may affect the service's entitlement to funding or of any changes in the financial status of the service.

The Commission also proposes that relevant third parties, such as banks, be subject to a duty to answer questions and produce documents. The Commission asks if there would be any difficulty complying with the proposed duties.

What submissions say

15.17 There is overwhelming support for the Commission's proposal to impose on service providers duties of co-operation with Commonwealth officers who are conducting a service visit. The majority opinion in submissions and consultations is that service providers would not have any difficulty complying with the duties,¹³⁹⁰ provided the Commonwealth officers do not act unreasonably.¹³⁹¹ There would be less chance of reprisals against staff who give information to officers if the staff are under a legal duty to answer questions and assist officers.¹³⁹² Some submissions say that staff should be able to ask that the management of the service be present when they are being questioned by Commonwealth officers and that residents and their families should be given the opportunity to answer questions if they wish.¹³⁹³ Some submissions are concerned that the duties should not result in an increased administrative burden for service providers and stress that the first priority should be the care needs and privacy rights of older people.¹³⁹⁴ The exact nature of the duties should be expressly clarified in the legislation.¹³⁹⁵

The Commission's view

15.18 In the Commission's view it is not realistic to give Commonwealth officers the powers outlined in paragraph 15.13 above without imposing reciprocal duties on the management and staff of services. An officer would not be able to perform a service assessment without the co-operation that these duties require. He or she would not be able to verify claims unless records were made available. Duties should be spelt out clearly in the legislation and should be limited to those necessary to ensure that officers responsible for monitoring services can do so effectively. The duties should not be so onerous that they detract from the care received by older people. Failure to comply with a duty would be an offence.

- ***Duty to help and co-operate with officers.*** The management and staff of a service should be required to provide reasonable help and to co-operate.
- ***Duty to allow entry during specified hours.*** The service provider or occupier of premises where records are required to be kept should be required to allow an authorised officer to enter the premises during specified hours for the purpose of searching for and inspecting documents and records to assess service quality, verify claims for and expenditure of Commonwealth funds or check compliance with funding conditions.

- ***Duty to answer questions.*** Management and staff of an aged care service should be required to answer questions relevant to the inspection or monitoring to the best of their knowledge, information and belief. This duty should not be imposed on residents, people receiving Care Packages or their families.
- ***Duty to obey authorised directions.*** A person should be required to comply with an authorised direction given by an officer, for example, a direction to produce a document.
- ***Duty to provide information.*** A person who receives funding should be subject to a duty to provide all information relevant to the funding received. The frequency with which the funding recipient must provide information will be tied to the purpose and conditions of the funding.
- ***Duty of third parties.*** In some instances, third parties, such as accountants or banks, may hold information necessary to check that a service has complied with the requirements imposed on it. A duty should be placed on third parties who have relevant information or documents to answer any reasonable questions and produce documents in their possession.

The Commission's recommendation

15.19 The Commission recommends that the legislation impose specific duties of co-operation on the management and staff of aged care services and relevant third parties. They should include duties

- **to help and co-operate with officers**
- **to allow entry during specified hours**
- **to answer questions**
- **to obey authorised directions**
- **to provide information.**

Should service providers be required to notify the Department about significant changes in circumstances?

The discussion paper

15.20 In its discussion paper the Commission proposes that legislation should require service providers to notify the Department of any change in circumstances that may affect the service's entitlement to funding. It asks if providers should have to notify the Department when they are in financial difficulty and, if so, what indicators should trigger a requirement to provide information.

What submissions say

15.21 The great majority of submissions that comment on this matter agree with the Commission's proposal that service providers should be under a special duty to notify the Department if they are in financial difficulty.¹³⁹⁶ One submission says that if all organisations are required to incorporate, as proposed by the Commission, corporations law would cover these requirements.¹³⁹⁷ Many service providers may be reluctant to reveal that they are in financial difficulty¹³⁹⁸ but the financial status of the service provider directly affects the care the service will be able to provide to older people and may jeopardise the tax payers' investment in aged care services.¹³⁹⁹ One submission considers that the best way to prevent service providers from experiencing financial difficulty is to develop more stringent criteria for screening new proprietors for approval to run a service.¹⁴⁰⁰ Another submission says that 'financial difficulty' may need to be defined differently for profit and for non-profit organisations.¹⁴⁰¹ Submissions say that the requirement to provide information about a service provider's financial situation could be triggered by

- poor monitoring reports¹⁴⁰²

- concerns and complaints of older people, staff or regular visitors¹⁴⁰³
- inability to pay or unreasonable delay in paying bills¹⁴⁰⁴ or staff wages¹⁴⁰⁵ [35](#)
- a drop in the standard of care provided¹⁴⁰⁶
- a drop in the service's credit rating¹⁴⁰⁷
- cash flow problems¹⁴⁰⁸
- financial difficulties experienced by the service provider's parent organisation¹⁴⁰⁹
- a large number of residents being transferred to other facilities and their places not being filled.¹⁴¹⁰

The Commission's recommendation

15.22 The Department examines an organisation's financial viability before approving funding. The Commission supports this approach to ensuring, as far as possible, that services are financially sound. It recognises, however, that an organisation's financial status may change after funding has been approved. If a service becomes insolvent and is forced to close, new care arrangements must be found for the clients of that service. The service provider should have to notify the Department if it is in financial difficulty. This would enable the Department to intervene at an earlier stage to prevent disruption to the care received by the consumers of the service and to protect the public money invested in the service. It would also help ensure that clients of services are not subject to disruption or inadequate care because a service falls into financial difficulty. **The Commission recommends that legislation should require service providers to notify the Department of any change in circumstances that may affect the service's entitlement to funding, in particular, if its viability is seriously threatened. The legislation should clearly specify the indicators that will trigger this requirement.** Indicators could include

- entering into a scheme of arrangement with creditors
- appointing a receiver/manager, liquidator or administrator within the meaning of the Corporations Law
- receipt of a Notice of Default by a mortgagee in relation to property which has a Commonwealth funded nursing home or hostel built on it.

16. Enforcing obligations of funding

Introduction

16.1 The Commonwealth imposes conditions on the aged care service provider it funds. This chapter discusses the range of sanctions the Commonwealth may impose on services to enforce these conditions of funding.

- It outlines existing sanctions for non-compliance with funding obligations (para 16.2).
- It outlines the Commission's proposals in its discussion paper (para 16.3-4).
- It outlines the response in submissions to the Commission's proposals (para 16.5-13).
- It expresses the Commission's view about sanctions and makes a recommendation (para 16.14-17).

Existing sanctions for non-compliance with funding obligations

16.2 If a nursing home or hostel or an organisation providing Care Packages does not comply with conditions of funding the Commonwealth may depending on the service type

- suspend funding for new users
- revoke approval as a service provider
- vary, suspend or revoke approval for funding
- require the service provider to appoint an aged care adviser to help administer the service
- vary a funding agreement, for example, by reducing the number of places approved for funding
- revoke the service provider's right to classify residents and nominate another person to classify residents where a substantial number of residents in a nursing home have been found to be incorrectly classified.

The discussion paper

General principles

16.3 In its discussion paper the Commission sets out a number of general principles. It says that service providers should know what actions the Commonwealth can take if they do not comply with their obligations. Sanctions, and the grounds on which they can be imposed, should be clearly set out in legislation. Nursing homes, hostels and organisations providing Care Packages should be subject to the same sanctions unless the nature of the service justifies a difference. There should be a range of sanctions and the sanction to be applied should depend on the nature and seriousness of non-compliance. The service provider should be notified of an intention to impose sanctions and the reasons. As a general rule, service providers should have the right to make a submission about the matter before a sanction is imposed.

Sanctions that should apply

16.4 In the discussion paper the Commission proposes that the new legislation should give the Secretary to the Department the power

- to vary conditions of funding and impose additional conditions on an approval in principle (AIP) or funding approval where a service provider fails to comply with a condition of an AIP or a condition of funding

- to suspend an AIP in certain specified circumstances
- to suspend recurrent funding approval on grounds specified in the legislation, including non-compliance with a condition of an approval
- to stop paying funding to a nursing home or hostel for new residents and to organisations providing Care Packages for new clients
- to revoke the service provider's right to classify residents where a service provider repeatedly provides inaccurate information about the classification of residents
- to revoke approval of a provider, revoke an AIP where approved provider status has been revoked and revoke capital or recurrent funding approval in certain specified circumstances.

The Commission also proposes that the legislation should include two new sanctions which give the Minister power

- to appoint an administrator to manage a service where
 - other available sanctions have been applied without success and the health and welfare of clients is threatened or
 - a service is in financial difficulty and is in serious danger of closing
- to issue a public declaration naming a service in breach of a condition and the nature of its breach.

What submissions say

Should conditions be varied or added where there is non-compliance with conditions?

16.5 The vast majority of submissions that address the issue give at least qualified support to the proposal that the Secretary should be able to vary conditions of funding and impose additional conditions on an AIP or funding approval where a service provider fails to comply with a condition of an AIP or a condition of funding.¹⁴¹¹ Their qualifications include

- conditions should be varied (or new conditions added) only in a climate of co-operation and problem solving, otherwise operators might feel that they are being victimised by Commonwealth officers¹⁴¹²
- the new conditions should be within reason and consistent with the normal demands of the funding agreement¹⁴¹³ and should relate specifically to the problems that have given rise to imposing the sanction¹⁴¹⁴
- conditions should not be changed without taking into account the circumstances of the people managing the service¹⁴¹⁵
- the new conditions should be in place only while non-compliance with conditions continues¹⁴¹⁶
- new conditions should not be imposed if they add significantly to the cost of proper operation of the service unless there is appropriate reimbursement¹⁴¹⁷
- the legislation should include guidelines on the circumstances in which conditions can be varied (or new ones added).¹⁴¹⁸

Submissions that disagree with the proposal do so on the grounds that such decisions should not be at the discretion of the Secretary of the Department of Human Services and Health (the Department) but should be made by an independent body¹⁴¹⁹ and that there would be additional costs to non-profit organisations.¹⁴²⁰

Should the Secretary be able to suspend an AIP in specified circumstances?

16.6 Most submissions that address the issue support the proposal that the Secretary should be able to suspend an AIP when the holder of the AIP already provides a funded aged care service that

- has failed to meet outcome standards
- has had funding related sanctions imposed, for example, funding has been suspended or revoked.¹⁴²¹

The main concern expressed in submissions is that the decision to suspend an AIP should be subject to appeal.¹⁴²²

Should the Secretary be able to suspend other approvals?

16.7 Most submissions that address the issue support the proposal that the Secretary should be able to suspend recurrent funding approval on grounds that would be listed in the legislation, including non-compliance with a condition of approval.¹⁴²³ There is a concern that there should be a right of appeal against a decision to suspend recurrent funding.¹⁴²⁴ A number of submissions express concern for the welfare of residents during the suspension period.¹⁴²⁵ One submission says that the well being of residents should be the main concern when the decision is made.¹⁴²⁶ Another submission says that recurrent funding approval should only be suspended in extreme situations and with due regard for the impact it may have on clients of the service. In cases of non-compliance with conditions of approval the Secretary should also consider whether it is more appropriate to end the funding agreement and give it to another service provider rather than to reduce recurrent funding.¹⁴²⁷

Should the Secretary be able to stop paying funding for new clients?

16.8 Most submissions that address the issue support the proposal that the Secretary should be able to stop paying funding to a nursing home or hostel for new residents or to an organisation providing Care Packages for new clients for failing to comply with a condition of approval.¹⁴²⁸ Again, support in some submissions is on the basis that there would be a right of appeal against the decision.¹⁴²⁹ A number of submissions express concern that existing residents should not suffer hardship because the sanction is imposed.¹⁴³⁰ One submission says that all possible safeguards should be put in place to ensure residents are not penalised, for example, assistance to relocate if necessary and support during the period of reduced funding.¹⁴³¹ Residents begin to suffer if sanctions continue for a long time so the Department and the service provider should co-operate to ensure that either conditions are complied with and sanctions removed or the service is closed.¹⁴³² Some submissions oppose the proposal. In the view of one submission the Minister, not the Secretary, should have the power to stop funding for new residents or Care Package recipients and it should be exercised only after all avenues have been explored and as a last resort.¹⁴³³ If the non-compliance with conditions has been caused by poor management the Department should provide help, not impose a penalty. If it has been caused culpably, for example, if there has been fraud, there should be a proper system in place to close or sell the service.¹⁴³⁴

Should the Secretary be able to revoke the service provider's right to classify residents?

16.9 Nursing homes and hostels classify residents according to their care needs. This classification directly affects the amount of funding the service receives. A proportion of classifications is periodically checked by Departmental officers, although the decision to check is increasingly made on a risk assessment basis. In its discussion paper the Commission proposes that, where a service provider repeatedly provides inaccurate information about the classification of residents, the Secretary should be able to revoke the service provider's right to classify residents.¹⁴³⁵ Most submissions that address this issue support the proposal.¹⁴³⁶ Again, support in some submissions is on the basis that there would be a right of appeal against the decision.¹⁴³⁷ One submission says the decision should only be made after discussion with an independent body.¹⁴³⁸ Some submissions would prefer the decision to be made by the Minister, not the Secretary.¹⁴³⁹ The approach to revoking a service provider's right to classify residents should be consistent across aged care facilities.¹⁴⁴⁰

In what circumstances should the Secretary be able to revoke approvals?

16.10 In responding to the question which asks when should the Secretary should be able to revoke funding approvals, most submissions focus on the welfare of the clients of the service. Submissions say the Secretary should be able to revoke an approval

- if the service is causing physical harm to clients¹⁴⁴¹
- where there is continued and significant disregard of residents' and clients' rights¹⁴⁴²
- where the health and well being of the residents and clients are at risk¹⁴⁴³
- where there have been persistent breaches of the funding agreement¹⁴⁴⁴ or standards¹⁴⁴⁵
- where circumstances that were taken into account in granting the approval are found to have been wrong or have changed to such an extent that the approval is no longer appropriate¹⁴⁴⁶
- where the service provider has not begun to provide services within the specified time.¹⁴⁴⁷

Submissions again consider that there should be a right of appeal against these decisions.¹⁴⁴⁸ Where the decision to revoke approval is made, residents and Care Package recipients should face as little disruption as possible.¹⁴⁴⁹

Should the Minister have the power to appoint an administrator to manage a service?

16.11 In its discussion paper the Commission proposes that the Minister should have the power to appoint an administrator to manage a nursing home, hostel or service providing Care Packages where

- other available sanctions have been applied without success and the health and welfare of clients is threatened or
- a service is in financial difficulty and is in serious danger of closing.

All submissions on this issue agree that the Commonwealth should be able to appoint an administrator, but they differ as to the circumstances when this is appropriate.¹⁴⁵⁰ Submissions say an administrator should be appointed

- when there is any reason to suspect there is a problem¹⁴⁵¹
- to prevent sudden closure of the service and where the health and welfare of residents or staff are at risk¹⁴⁵²
- if the Commonwealth has major equity and only as a last resort¹⁴⁵³
- when organisations have clearly not been able to manage their affairs and have been given every assistance¹⁴⁵⁴
- as soon as financial difficulties are noticed or notified¹⁴⁵⁵
- at the request of the service provider¹⁴⁵⁶
- where there has been a persistent or serious breach of the funding agreement and the provider has failed to correct the breach within an appropriate time frame¹⁴⁵⁷
- only while removing management responsibility from one organisation to another¹⁴⁵⁸
- where financial instability may compromise the health and welfare of clients.¹⁴⁵⁹

Submissions are divided as to who should bear the cost of the administrator. Some submissions say the Commonwealth should.¹⁴⁶⁰ One submission considers that the Commonwealth should, however, be able to recover these costs over a period of time.¹⁴⁶¹ Other submissions show support for costs being carried by the service provider.¹⁴⁶² One submission expands on the issue to say that the service provider should pay if there has been fraud or if a negative loading has been imposed through underspending of CAM funding. It says the Department should share the cost if the service provider has acted credibly and on the advice of the Department and has managed to get into financial strife.¹⁴⁶³

Should the Minister have the power to issue a public declaration naming a service?

16.12 Most submissions give at least qualified support to the proposal that the Minister should have the power to issue a public declaration naming a service that has failed to comply with conditions of funding and has not responded to lesser sanctions.¹⁴⁶⁴ Some submissions support the proposal on the ground that clients of the service and the community generally have a right to know.¹⁴⁶⁵ It would be an effective sanction because many service providers rely on their good name to attract older people as consumers.¹⁴⁶⁶ Some submissions say that this sanction should be imposed only if the breach of conditions has been significant.¹⁴⁶⁷ Others consider that the sanction should not be imposed until all other avenues of resolution have been attempted.¹⁴⁶⁸ The Minister should ensure that the information in the declaration is accurate¹⁴⁶⁹ and the service provider should have the right to sue the Minister or the Commonwealth if this is wrong.¹⁴⁷⁰ Before the declaration is published there should be a period in which the provider can lodge an appeal which should be determined before publication.¹⁴⁷¹ It is thought that this will be an effective sanction only if all services are monitored consistently.¹⁴⁷² Some submissions are also concerned that the declaration should not affect the older people using the service.¹⁴⁷³

Should the imposition of sanctions be reviewable?

16.13 Submissions agree with the Commission's proposal that a decision to impose sanctions should be reviewable by the Minister (if the decision is made by the Secretary) and the Administrative Appeals Tribunal (AAT).¹⁴⁷⁴

The Commission's view

The program should have an effective sanctions regime

16.14 The Commonwealth approves organisations to provide aged care services for older people. It gives them large sums of money for this purpose. It imposes conditions on funding to ensure that the services it funds meet its specifications. Conditions are of limited value unless they can be enforced. The program has a range of sanctions it can impose to enforce its conditions. It is often difficult to apply them, however, because they may hurt the clients of the service as well as the service provider. Sanctions that involve the suspension, reduction or withdrawal of funding, for example, may affect the quality of care provided to clients. The program cannot take action that will result in the closure of a service without finding alternative accommodation or services for clients. Enforcement is more likely to be effective if the program can act quickly and can take measures to resolve problems before they become serious. In the Commission's view there should be a wider range of lesser sanctions that can be imposed on service providers who fail to comply with conditions of approval. The same sanctions regime should apply to nursing homes, hostels and organisations providing Care Packages.

The sanctions regime should be well known to service providers and should be applied fairly and consistently

16.15 Depending on their severity imposing sanctions may have a serious effect on a service provider. In the Commission's view the sanctions that may be imposed on a service provider for failing to comply with a condition of approval and the process for applying them should be in the legislation. The legislation should clearly set out the criteria against which a decision to impose a sanction is made. It should require that the Secretary notify the service provider in writing at each stage

- the breach in respect of which a sanction may be imposed

- the intention to impose a sanction and the reasons why
- the decision to impose a sanction and the reasons why.

The notification of breach and the notification of intention to impose a sanction should include the possible consequences. The notification of the decision to impose a sanction should include the nature of the sanction to be imposed, its consequences and any review rights the service provider might have. At each stage in the process the service provider should have an opportunity to make a submission in writing to the Secretary.

Decisions to impose a sanction should be reviewable

16.16 In the Commission's view a decision to impose a sanction clearly affects the interests of service providers and should be reviewable. A sanction that is imposed by the Secretary should be reviewed by the Minister at first instance and then by the AAT. The Commission is, however, concerned that merits review does not delay the Department removing funding where there is a serious risk to the health and welfare of consumers, for example where residents are subject to physical abuse. It therefore supports the Administrative Review Council's recommendation that where the Minister considers that urgent action should be taken, a Ministerial certificate should be issued in which the Minister would state that, in his or her opinion, the urgent action is necessary. The Ministerial certificate should be tabled in Parliament within 15 sitting days of issuing the certificate.¹⁴⁷⁵ The issuing of such a certificate would effectively prevent action by a service provider to defer the removal of funding by seeking review.

The Commission's recommendation

16.17 The Commission recommends that the new legislation should give the Secretary power to impose sanctions for non-compliance with conditions of funding. The Secretary should have the power

- **to vary conditions of approval**
- **to suspend an approval**
- **to revoke an approval**
- **to stop paying funding to a nursing home or hostel for new residents or to an organisation providing Care Packages for new clients for failing to comply with a condition of approval**
- **to revoke the service providers' right to classify residents and appoint another person to classify residents where a substantial number of residents have been found to be incorrectly classified.**

The legislation should give the Minister power

- to appoint an administrator¹⁴⁷⁶ to manage a nursing home, hostel or service providing Care Packages where
- other available sanctions have been applied without success and the health and welfare of clients is threatened or
- a service is in financial difficulty and is in serious danger of closing or
- the service provider so requests
- to issue a public declaration naming a service that is in breach of a condition and the nature of its breach.

The legislation should set out the process for making a decision to impose a sanction. Decisions by the Secretary or the Minister to impose sanctions on a service provider should be reviewable by the AAT.

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A Adams NSW *Submission 270*
Adeline Retirement Village NSW *Submission 266*
Aged Care Australia ACT *Submission 283*
Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*
Aged Care Organisations Association Residents' Group SA *Submission 198*
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 M Stewart NSW *Submission 69*
 CA Stringer NSW *Submission 48*
 Top End Advocacy Service NT *Submission 180*
 Townsville Committee on the Ageing QLD *Submission 90*
 Tumbukka Regional Council VIC *Submission 303*
 Victorian Bar Council VIC *Submission 148*
 Volunteer Centre of NSW *Submission 147*
 Volunteer Centre of SA Inc *Submission 107*
 Walumba Hostel Turkey Creek WA *Submission 29*
 Wesley Central Mission QLD *Submission 64*
 H Wilkins NSW *Submission 75*
 H Wilkinson QLD *Submission 94*
 Yarrabah Community Council, Aged Persons Hostel QLD *Submission 304*
 YMCA of Sydney NSW *Submission 115*

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- 1 The terms of reference are at the beginning of this report.
 - 2 ALRC DP 57.
 - 3 ALRC DP 55.
 - 4 ALRC 70.
 - 5 AGPS Canberra 1994.
 - 6 At the time of publication a report was expected to go to the Joint Ministerial Council in April 1995 which would then decide on how it should be released.
 - 7 Organisations represented were: the National Association of Nursing Homes and Private Hospitals; Australian Pensioners' and Superannuants' Federation; Aged Care Australia; Council on the Ageing (Australia); Australian Nursing Homes and Extended Care Association; Australian Council of Trade Unions; Australian Nursing Federation; Health Services Union of Australia; Liquor Hospitality and Miscellaneous Workers Union and the Carers Association of Australia Inc.
 - 8 Constitution s 81.
 - 9 Constitution s 96.
 - 10 Constitution s 122.
 - 11 Constitution s 51 (xx).
 - 12 Constitution s 51 (xxix).
 - 13 Constitution s 51 (xxiiiA).
 - 14 Administrative Review Council *Administrative Review and Funding Programs: A Case Study* Report No. 37 AGPS Canberra 1994.
 - 15 See, in particular, recommendations relating to aged care at 2.11 and 3.14.
 - 16 House of Representatives Standing Committee on Expenditure *In a home or at home: accommodation and home care for the aged* AGPS Canberra 1982.
 - 17 Senate Select Committee on Private Hospitals and Nursing Homes *Private Nursing Homes in Australia: their conduct, administration and ownership* AGPS Canberra 1985.
 - 18 Department of Community Services *Nursing Homes and Hostels Review* AGPS Canberra 1986.
 - 19 C Ronalds *Residents' Rights in Nursing Homes and Hostels, Final Report* Department of Community Services and Health AGPS Canberra 1989.
 - 20 Department of Health Housing and Community Services *Aged Care Reform Strategy Mid Term Review Stage 1 1990-1991* AGPS Canberra 1991.
 - 21 Department of Health Housing Local Government and Community Services *Aged Care Reform Strategy Mid-Term Review Stage 2* AGPS Canberra 1993. This stage included Department of Health Housing and Community Services *Putting the Pieces Together; A National Action Plan for Dementia Care* AGPS Canberra 1992.

22 The Senate Community Affairs References Committee *Validation of CAM and SAM Funding of Nursing Homes Final Report* Senate
Printing Unit Canberra 1994.

23 The Nursing Home Consultative Committee Report to the Hon Brian Howe, 29 March 1994.

24 J Braithwaite et al *Raising the Standard: Resident centred nursing home regulation in Australia* AGPS Canberra 1993.

25 Department of Health Housing Local Government and Community Services *Review of the Structure of Nursing Home Funding
Arrangements Stage 1* AGPS Canberra 1993.

26 S Macri *Resident Classification Instrument Documentation Consultation* commissioned by the Department of Health Housing Local
Government and Community Services 1993.

27 R Gregory *Review of the Structure of Nursing Home Funding Arrangements Stage 2* AGPS Canberra 1994. This review, which reported in
June 1994, examines the effectiveness of capital funding arrangements for upgrading and replacing nursing homes and considers options for
the long term financing of residential aged care.

28 At the time of writing it was expected that the report would be tabled in February 1995.

29 T Schwab ed *Caring for an Aging World - International Models for Long-Term Care, Financing and Delivery* New York 1989, 3.

30 *Aged Care Reform Strategy Mid Term Review 1990-91* AGPS Canberra, 76.

31 OECD Social Policy Studies No 14 *Caring for Frail Elderly People - New Directions in Care* OECD 1994.

32 R Clare and A Tulpule *Australia's Ageing Society Economic Planning Advisory Council Background Paper No 37* Canberra 1994, 3, 4, 18,
36.

33 Women make up 73% of nursing home residents, 75% of hostel residents and 72% of HACC clients: Australian Institute of Health and
Welfare Australia's Welfare 1993: services and assistance AGPS Canberra 1993, 236.

34 *Aged Care Reform Strategy Mid Term Review 1990-91* AGPS Canberra, 76.

35 In 1985-86, 80% of expenditure was on nursing homes, 5% on hostels and 15% on community care. In 1991-92, 68% of expenditure was on
nursing homes, 10% on hostels and 22% on community care: Australian Institute of Health and Welfare Australia's Welfare 1993: services
and assistance AGPS Canberra 1993, 242.

36 Only 2.5% of Australians over 60 years live in nursing homes and 1.7% live in hostels; of people over 85 years, 20% live in nursing homes
and 13.2% live in hostels: id, 247.

37 Rules and regulations made under a power given by legislation to the Minister.

38 Australian Institute of Health and Welfare Australia's Welfare 1993: services and assistance Canberra AGPS 1993, 231.

39 L Rosenman and J Western *Women as Carers* (unpublished) University of Queensland 1993; cited in National Council for the International
Year of the Family *Creating the Links: Families and Social Responsibility* AGPS 1994, 81.

40 It is also paid to carers of people over 16 years with a disability.

41 As at 30 June 1994 there were 37 169 people receiving DNCB. Of the 37 169 carers receiving the benefit, 29 830 provided care for 30 493
people aged over 60 years. The annual cost of DNCB payments was \$49.88 million. Of people aged 70 or more 23 852 were cared for by
carers receiving DNCB and 64 997 people were being cared for in nursing homes.

42 As at 5 January 1995.

43 In June 1992, 94% of all hostel places were operated by the private not-for-profit sector. Of the rest virtually all were operated by State
governments and fewer than 1% were in the private for profit sector. 47% of all nursing home places were provided by private for profit
organisations, 35% by private not for profit organisations and 18% by State governments: Australian Institute of Health and Welfare
Australia's Welfare 1993: services and assistance AGPS Canberra 1993, 226-8.

44 HACC will be reviewed separately by the Law Reform Commission: see para 1.8.

45 See para 2.47.

46 Formerly called Geriatric Assessment Teams.

47 In certain circumstances younger people with disabilities may also receive nursing home care in an aged care residence where there is no
other more suitable form of care, for example, in rural or remote communities.

48 This is calculated on figures as at 1 January 1995 and an average nursing home benefit of \$74.79 per resident per day. The actual amount
paid to a nursing home depends on varying factors, such as the assessed care needs of residents in the home.

49 Services receive a higher rate of SAM for respite residents who occupy a place which is vacant because a permanent resident has left or died.

50 This is assuming the nursing home attracts the maximum 2:1 rates of land and building subsidy per place and has an urban location.

51 All these figures are 1995 rates.

52 Using the 'Private Gross Fixed Capital Expenditure other dwellings deflator' for building costs and the CPI for land costs.

53 ie default minimum Category 3 CAM funding and an additional 50% of discounted SAM.

54 NSW & ACT \$33.35, Vic \$48.50, Qld \$28.10, WA \$31.55, SA & NT \$39.05 and Tas \$27.80.

55 \$6 per resident per day.

56 As at 24 September 1994.

57 In certain circumstances younger people with disabilities may also receive hostel care in an aged care facility where there is no other more
suitable form of care, for example, in rural or remote communities.

58 This is calculated at average payments for permanent residents in 1994-95 based on an average rate per hostel resident per day of \$20.29.
The amount a hostel actually receives depends on levels of occupancy, the financial status and care needs of residents, use of respite services
and the date residents entered the hostel.

59 The hostel general conditions define a 'financially disadvantaged person' as someone who, before entering the hostel received the maximum
aged pension, did not own a house in the previous two years and has been identified by the operator of the hostel to the Department as
financially disadvantaged. The Secretary also has the discretion to declare financially disadvantaged a resident who does not meet the
definition if an operator identifies him or her as financially disadvantaged, having regard to the person's assets and income.

60 The rate is \$3.45 per day for residents who entered after 28 April 1993 and \$2.85 for residents who entered before that date.

61 The rate per day for financially disadvantaged residents is \$25.90 (low), \$31.20 (intermediate) and \$34.00 (high) and for residents who are
not financially disadvantaged \$22.55 (low), \$27.90 (intermediate) and \$30.70 (high), as at 9 November 1994. There are different rates for
residents who entered a hostel before 28 April 1993.

62 The rate for a respite resident requiring supported accommodation only is \$11.00 per day; for a respite resident also requiring personal care it
is \$34.85 (as at 9 November 1994).

63 This is assuming the hostel has 2 respite places, a 20% Financially Disadvantage Person (FDP) ratio and is in an urban location.

64 The minimum number of financially disadvantaged persons a hostel must cater for is determined when the Commonwealth allocates hostel
places to planning regions. The number of places for financially disadvantaged persons a hostel is approved to provide is also set out in the
funding agreement between the Minister and the hostel.

65 Using the 'Private Gross Fixed Capital Expenditure Other High-rise Dwellings and Spare Tyre Deflator' for building costs and the CPI for
land costs.

66 The person's principal home is considered an asset.

67 Care Packages were introduced across Australia in the 1992/93 budget after piloting from 1989.

68 As at 1 January 1995.

69 Organisations have been approved to provide from 2 to 100 Care Packages.

70 The Care Package general conditions define a 'financially disadvantaged person' (FDP) as someone who, before paying for first receipt of services or entering a hostel, nursing home or other aged person's residential facility administered by the organisation, received the maximum aged pension, did not own a house in the previous two years and has been identified to the Department by the organisation as financially disadvantaged. The Secretary also has the discretion to declare financially disadvantaged a person who does not meet the definition if a provider identifies them as financially disadvantaged, having regard to the person's assets and income.

71 No new approvals are now being granted for these centres.

72 This pilot is due to be evaluated in 1995-96.

73 Both pilots are 1993-94 Budget initiatives.

74 In 1991 about 136 000 older people were identified as having Alzheimer's disease and other forms of dementia. This figure represents 1.6% of people aged 65-69 and 28.7% of people aged 85 or more. It is also estimated that the number of people with dementia will rise by 20% in the period 1991-1996: Department of Health, Housing and Community Services Putting the Pieces Together, A National Action Plan for Dementia Care AGPS Canberra 1992, 9.

75 The program pays this money to Aboriginal Hostels Ltd which then administers the funding. This was a 93/94 budget initiative, extended in 1994-95.

76 This is a 1994-95 budget initiative providing total funding of \$9.5 million over four years.

77 This is a 1993-94 Budget initiative due to be evaluated in 1995-96.

78 At the time of publication all pilots were just starting up.

79 The target groups are older people from Aboriginal and Torres Strait Islander communities, older people of non-English speaking backgrounds and older people who live in rural or remote communities.

80 The program is described in ch 2.

81 The Commission reports what submissions say in ch 4-16 of this report.

82 See particularly ch 6.

83 See ch 9.

84 See ch 4; 5; 8; 14; 15.

85 Although a part or provision of the Act may have its own objects clause.

86 'Support' includes but is not limited to nursing and paramedical care, food and accommodation, social support and help with the activities of daily living. It may also include services to ensure that older people's rights are respected.

87 Ch 2 of this Report provides a model.

88 The Councils replace and build on the work of Consumer Forums for the Aged which were made up of older people appointed by the Minister.

89 See para 4.11.

90 VP Catlow QLD *Submission 62*; Network of Home and Community Based Services WA *Submission 74*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Volunteer Centre of SA Inc *Submission 107*; ABRI Home for the Aged NSW *Submission 110*; Residents of ABRI Hostel QLD *Submission 111*; Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*; Older Persons' Action Centre Inc VIC *Submission 117*; Carers Association of Australia Inc ACT *Submission 160*; Catholic Womens League Australia ACT *Submission 161*; L Bertelli VIC *Submission 169*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Department of Community and Health Services TAS *Submission 189*; Older Women's Network Inc TAS *Submission 211*; Caulfield Aged Care Assessment Team VIC *Submission 223*; Australian Pensioners and Superannuants League in Queensland QLD *Submission 251*; Adelaide and Hobart consultations.

91 FM Barker and L R Harding SA *Submission 156*; see also Council on the Ageing SA *Submission 201*.

92 Council on the Ageing SA *Submission 201*.

93 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.

94 Catholic Womens League Australia ACT *Submission 161*.

95 Kelvin Dickens Consulting Service SA *Submission 87*.

96 H Sherning WA *Submission 132*; Caulfield Aged Care Assessment Team VIC *Submission 223*; see also Hobart, Melbourne and Sydney consultations.

97 Australian Geriatrics Society NSW Division *Submission 150*.

98 Department of Community and Health Services TAS *Submission 189*.

99 Volunteer Centre of SA Inc *Submission 107*; Council on the Ageing (Australia) VIC *Submission 185*.

100 VP Catlow QLD *Submission 62*.

101 Residents of ABRI Hostel QLD *Submission 111*.

102 Network of Home and Community Based Services WA *Submission 74*.

103 Older Women's Network Inc TAS *Submission 211*.

104 Council on the Ageing (Australia) VIC *Submission 185*.

105 Inner South Community Health Service VIC *Submission 79*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Home Care Services of NSW *Submission 104*; Osborne Park Hospital WA *Submission 166*; L Bertelli VIC *Submission 169*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Ethnic Communities Council of New South Wales NSW *Submission 280*; Ethnic Committees Council of ACT *Submission 285*; Confidential WA *Submission 298*; Hobart consultations.

106 Central Australian Advocacy Service NT *Submission 78*; Home Care Services of NSW *Submission 104*; Katherine consultations.

107 Katherine consultations.

108 VP Catlow QLD *Submission 62*; NSW Council of Senior Citizens Associations NSW *Submission 63*; NSW Retired Teachers Association NSW *Submission 65*; Central Australian Advocacy Service NT *Submission 78*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Australian Nursing Federation, National VIC *Submission 142*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Alzheimer's Association NSW *Submission 276*.

109 Central Australian Advocacy Service NT *Submission 78*; Osborne Park Hospital WA *Submission 166*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.

110 Alzheimer's Association NSW *Submission 276*.

111 See eg Home Care Services of NSW *Submission 104*.

112 Top End Advocacy Service NT *Submission 180*; Katherine consultations.

113 Osborne Park Hospital WA *Submission 166*.

114 Liverpool Health Service NSW *Submission 43*.

115 Volunteer Centre of SA Inc *Submission 107*.

116 Ethnic Aged Care Advisory Committee NSW *Submission 101*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.

117 Top End Advocacy Service NT *Submission 180*.

118 Confidential QLD *Submission 195*.

119 Aged Care Australia Inc ACT *Submission 178*.

120 Home Care Services of NSW *Submission 104*.

121 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*; Darwin consultations.

122 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.

123 Confidential SA *Submission 61*; Older Women's Network (Australia) Inc NSW *Submission 170*; see also FJ Campbell WA *Submission 60*; L Bertelli VIC *Submission 169*.

124 Older Women's Network (Australia) Inc NSW *Submission 170*.

125 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

126 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*.

127 Country Women's Association of Western Australia (Inc) WA *Submission 127*.

128 Ethnic Communities Council of New South Wales NSW *Submission 280*.

129 See eg Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Department of Immigration and Ethnic Affairs ACT *Submission 221*.

130 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; see also National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*.

131 Department of Immigration and Ethnic Affairs ACT *Submission 221*.

132 National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*.

133 Australian Association of Social Workers Ltd WA *Submission 165* ; L Bertelli VIC *Submission 169*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*; J Ambrose VIC *Submission 227*; Melbourne consultations.

134 J Ambrose VIC *Submission 227*.

135 Dr J Neal TAS *Submission 213*; see also Home Care Services of NSW *Submission 104*.

136 Queensland Council of Carers QLD *Submission 244*; see also N Jamieson TAS *Submission 154*.

137 Darwin consultations.

138 Council on the Ageing (Australia) VIC *Submission 185*.

139 Australian Association of Social Workers Ltd WA *Submission 165*.

140 L Bertelli VIC *Submission 169*.

141 The Accommodation Rights Service Inc NSW *Submission 187*; see also Confidential WA *Submission 298*.

142 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Australian Nursing Federation, National VIC *Submission 142*; Department of Community and Health Services TAS *Submission 189*; Maltese Community Council of NSW *Submission 225*. But see Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.

143 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Department of Community and Health Services TAS *Submission 189*; Melbourne, Sydney and Adelaide consultations.

144 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.

145 Department of Human Services and Health, Brisbane QLD *Submission 121*.

146 Kelvin Dickens Consulting Service SA *Submission 87*; see also Confidential WA *Submission 298*.

147 The Accommodation Rights Service Inc NSW *Submission 187*.

148 ACOA Residents Group SA *Submission 137*.

149 Aged Care Australia Inc ACT *Submission 178*; see also Kelvin Dickens Consulting Service SA *Submission 87*; Salvation Army VIC *Submission 141*.

150 Aged Care Australia Inc ACT *Submission 178*.

151 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.

152 The Gazette is a Commonwealth publication in which official notices are published.

153 Department of Community Services *Nursing Homes and Hostels Review* AGPS Canberra 1986.

154 Department of Health Housing and Community Services *Aged Care Reform Strategy Mid Term Review 1990-91* AGPS Canberra 1991.

155 Principally on the projected growth in the population of people 70 years and over.

156 These are non-statutory committees with representatives from the Commonwealth Department, State and Territory departments and other people appointed because of their knowledge and experience. In NSW an Aboriginal and Torres Strait Islander working group and an Ethnic working group have been established to provide formal advice to the NSW ACAC. The ACAC considers this advice when making its recommendations to the Minister.

157 The committees look at demographic data at both the regional and statistical local area level where appropriate. They also use information on what services are provided and how much they are used (including HACC services), comments from project officers and regional consultations.

158 The Department has developed regional profiles that further refine the assessment of need for aged care services in regional areas.

159 See eg C Fehring VIC *Submission 122*; Aged Cottage Homes Inc SA *Submission 138*; Australian Association of Social Workers Ltd WA *Submission 165*.

160 K C Lambert WA *Submission 85*; see also Dr M Dunstone SA *Submission 19*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Department of Community and Health Services TAS *Submission 189*; Bunbury consultations.

161 eg Brisbane South: Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Eastern Sydney: Prince of Wales Hospital NSW *Submission 80*; NSW Central Coast: Council on the Ageing (Australia) VIC *Submission 185*; Canberra consultations.

162 Municipal Association of Victoria VIC *Submission 53*; Wesley Central Mission QLD *Submission 64*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Alzheimer's Association NSW *Submission 276*; Adelaide, Dubbo and Melbourne consultations. See also para 6.50.

163 eg Cooktown: Cooktown Health Action Group QLD *Submission 36*; WA: A Courtis WA *Submission 177*; Cairns consultations.

164 eg Port Macquarie: R Stankevicius QLD *Submission 89*; Mornington Peninsula: Mornington Peninsula Hospital VIC *Submission 50*; Morwell and Hobart consultations.

165 eg NSW Central Coast: Anonymous NSW *Submission 59*; Port Macquarie area: R Stankevicius QLD *Submission 89*; P Gleeson *Submission 81*; Aged Care Australia Inc ACT *Submission 178*; Sydney consultations.

166 In Coleambally 5 beds were needed but 12 were allotted because 5 would not be viable: J Mitchell NSW *Submission 277*; see also Sydney, Adelaide, Perth, Cairns and Dubbo consultations.

167 Kelvin Dickens Consulting Service SA *Submission 87*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*; Adelaide, Brisbane and Cairns consultations.

168 Cairns consultations.

169 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Brisbane consultations.

170 Department of Community and Health Services TAS *Submission 189*.

171 Australian Nursing Federation, Victorian Branch VIC *Submission 119*.

172 Family Research Action Centre VIC *Submission 229*.

173 Caulfield Aged Care Assessment Team VIC *Submission 223*; Sydney consultations.

174 Department of Human Services and Health, Brisbane QLD *Submission 121*.

175 Aged Care Australia Inc ACT *Submission 178*.

176 Ethnic Communities Council of New South Wales NSW *Submission 280*; see also Migrant Resource Centre TAS *Submission 205*.

177 Ethnic Communities Council of New South Wales NSW *Submission 280*; Ethnic Committees Council of ACT *Submission 285*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Sydney and Melbourne consultations.

178 Department of Immigration and Ethnic Affairs ACT *Submission 221*.

179 See eg Central Australian Advocacy Service NT *Submission 78*; ACOA Residents Group SA *Submission 137*; Queensland Council of Carers QLD *Submission 244*.

180 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Tweed Heads and Melbourne consultations.

181 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*.

182 See eg Central Australian Advocacy Service NT *Submission 78*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Sisters of Mercy Administration QLD *Submission 144*.

183 National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*.

184 Liverpool Health Service NSW *Submission 43*; see also Central Australian Advocacy Service NT *Submission 78*; R Brickhill ACT *Submission 130*; Queensland Council of Carers QLD *Submission 244*.

185 Central Australian Advocacy Service NT *Submission 78*.

186 Department of Human Services and Health, Brisbane QLD *Submission 121*.

187 Salvation Army VIC *Submission 141*; Perth consultations.

188 Anonymous NSW *Submission 59*; P Gleeson *Submission 81*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.

189 eg Canberra: Older Women's Network Action Group ACT *Submission 289*; Pilbara and Kimberley region of WA: Confidential WA *Submission 298*.

190 Tweed Heads and Perth consultations.

191 For example, using Care Packages in the interim: Confidential SA *Submission 61*; Aged Care Australia Inc ACT *Submission 178*; The Accommodation Rights Service Inc NSW *Submission 187*.

192 Department of Immigration and Ethnic Affairs ACT *Submission 221*.

193 Alzheimer's Association (Australia) Inc NSW *Submission 175*; Alzheimer's Association NSW *Submission 276*.

194 Metropolitan Municipal Association VIC *Submission 108*; Aged Care Assessment Program, NSW Evaluation Unit *Submission 112*; J Mitchell NSW *Submission 277*.

195 Home Care Services of NSW *Submission 104*; Department of Human Services and Health, Brisbane QLD *Submission 121*.

196 Municipal Association of Victoria VIC *Submission 53*.

197 See eg The Accommodation Rights Service Inc NSW *Submission 187*.

198 Salvation Army VIC *Submission 141*.

199 Home Care Services of NSW *Submission 104*; Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.

200 Home Care Services of NSW *Submission 104*.

201 Sisters of Mercy Administration QLD *Submission 144*.

202 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.

203 Townsville Committee on the Ageing QLD *Submission 90*; Older Persons' Action Centre Inc VIC *Submission 117*; Salvation Army VIC *Submission 141*.

204 Osborne Park Geriatric Medicine Service WA *Submission 100*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Minister for Health QLD *Submission 231*.

205 Ethnic Aged Care Advisory Committee NSW *Submission 101*; L Bertelli VIC *Submission 169*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Sydney and Melbourne consultations.

206 Central Australian Advocacy Service NT *Submission 78*.

207 National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*.

208 Australian Association of Social Workers Ltd WA *Submission 165*.

209 Currently only NSW has an ethnic advisory working group: Ethnic Aged Care Advisory Committee NSW *Submission 101*.

210 Office on Ageing NSW *Submission 222*.

211 Minister for Health QLD *Submission 231*.

212 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; F Delbridge QLD *Submission 37*; Law Society of ACT *Submission 76*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; New South Wales Nurses' Association NSW *Submission 99*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; J Mom QLD *Submission 123*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; St Luke's Hospital Complex NSW *Submission 149*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*.

213 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Metropolitan Municipal Association VIC *Submission 108*; Sisters of Mercy Administration QLD *Submission 144*; Council on the Ageing (Australia) VIC *Submission 185*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

214 Sisters of Mercy Administration QLD *Submission 144*.

215 Formerly called Geriatric Assessment Teams.

216 *Commonwealth Guidelines for Assessment Services* 1987. The Department has developed new draft guidelines and at the time of publication is consulting with the community about them.

217 See eg NSW Council of Senior Citizens Associations NSW *Submission 63*; NSW Retired Teachers Association NSW *Submission 65*; Melbourne, Dubbo and Tweed Heads consultations.

218 Australian Pensioners' and Superannuants' League QLD *Submission 86*.

219 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.

220 Aged Care Australia Inc ACT *Submission 178*.

221 Footscray Society for the Aged (Inc) VIC *Submission 116*.

222 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.

223 See eg KC Lambert WA *Submission 85*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Darwin consultations.

224 Salvation Army VIC *Submission 141*.

225 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; Medea Park Association Inc TAS *Submission 113*; Alzheimer's Association, Western Australia WA *Submission 260*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Bunbury consultations.

226 See eg Home Care Services of NSW *Submission 104*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Ethnic Communities Council of New South Wales NSW *Submission 280*; Ethnic Communities Council of ACT *Submission 285*. One submission says that 'people of NESB are significantly under-represented as clients of Assessment Teams': Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.

227 Department of Human Services and Health, Brisbane QLD *Submission 121*.

228 See eg Home Care Services of NSW *Submission 104*; Confidential SA *Submission 61*; Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Council on the Ageing (Australia) VIC *Submission 185*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Ethnic Communities Council of Queensland QLD *Submission 245*.

229 Alzheimer's Association (Australia) Inc NSW *Submission 175*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Migrant Resource Centre TAS *Submission 205*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.

230 See eg Ethnic Aged Care Advisory Committee NSW *Submission 101*; Ethnic Communities Council of ACT *Submission 285*.

231 See eg Ethnic Aged Care Advisory Committee NSW *Submission 101*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.

232 See eg Ethnic Aged Care Advisory Committee NSW *Submission 101*; Council on the Ageing (Australia) VIC *Submission 185*.

233 See eg Confidential SA *Submission 61*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.

234 Australian Pensioners' & Superannuants' Federation *Aged Care - What residents say: report of focus groups conducted with residents of nursing homes and hostels* prepared for the Australian Law Reform Commission November 1994 (Focus groups report).

235 See eg Ethnic Aged Care Advisory Committee NSW *Submission 101*.

236 National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Ethnic Communities Council of New South Wales NSW *Submission 280*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; see also Department of Immigration and Ethnic Affairs ACT *Submission 221*.

237 Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.

238 See eg Home Care Services of NSW *Submission 104*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; L Bertelli VIC *Submission 169*.

239 L Bertelli VIC *Submission 169*; Department of Immigration and Ethnic Affairs ACT *Submission 221*; Ethnic Communities Council of New South Wales NSW *Submission 280*.

240 Focus groups report.

241 See also Hobart consultation.

242 Focus groups report.

243 Sydney consultation; see also Dr N Hodgkinson NSW *Submission 109*.

244 Older Women's Network (Australia) Inc NSW *Submission 170*.

245 Older Women's Network (Australia) Inc NSW *Submission 170*.

246 Older Persons' Action Centre Inc VIC *Submission 117*.

247 Dr M Dunstone SA *Submission 19*; Confidential NSW *Submission 133*; J Ambrose VIC *Submission 227*.

248 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.

249 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Department of Community and Health Services TAS *Submission 189*.

250 VP Catlow QLD *Submission 62*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Department of Human Services and Health, Brisbane QLD *Submission 121*.

251 J Woodward QLD *Submission 254*.

252 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*; Darwin consultations.

253 Department of Human Services and Health, Brisbane QLD *Submission 121*.

254 Australian Association of Social Workers Ltd WA *Submission 165*.

255 Footscray Society for the Aged (Inc) VIC *Submission 116*.

256 Confidential SA *Submission 61*; see also Older Persons' Action Centre Inc VIC *Submission 117*.

257 'See eg Dr B Draper NSW *Submission 20*; C Fehring VIC *Submission 122*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council on the Ageing QLD *Submission 247*; Katherine, Bunbury and Sydney consultations.

258 Brisbane South Regional Health Authority QLD *Submission 128*.

259 Cairns consultations.

260 Perth consultations; see also Australian Association of Social Workers Ltd WA *Submission 165*.

261 Older Women's Network (Australia) Inc NSW *Submission 170*.

262 Brisbane South Regional Health Authority QLD *Submission 128*.

263 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.

264 Confidential SA *Submission 61*; Home Care Services of NSW *Submission 104*.

265 See eg Australian Association of Social Workers Ltd WA *Submission 165*; see also Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

266 Logan Regional Resource Centre Inc QLD *Submission 21*; see also K Rundell WA *Submission 3*.

267 Of the 62 that answered the question directly 51 agreed with the Commission's proposals. Information workshops and discussions with State and federal government Departments also indicated strong support.

268 See eg Council on the Ageing QLD *Submission 247*; Queensland Council of Carers QLD *Submission 244*; Confidential WA *Submission 298*.

269 Queensland Health, Darling Downs Region QLD *Submission 33*.

270 Law Society of ACT *Submission 76*; Family Research Action Centre VIC *Submission 229*.

271 Brisbane South Regional Health Authority QLD *Submission 128*.

272 Older Persons' Action Centre Inc VIC *Submission 117*.
273 Family Research Action Centre VIC *Submission 229*.
274 See eg Dr B Draper NSW *Submission 20*; VP Catlow QLD *Submission 62*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Combined Pensioners and Superannuants Association of NSW (Inc) *Submission 118*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Anglican Community Services SA *Submission 199*; Caulfield Aged Care Assessment Team VIC *Submission 223*; Queensland Council of Carers QLD *Submission 244*; Council on the Ageing QLD *Submission 247*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*.
275 See eg Liverpool Health Service NSW *Submission 43*; Confidential SA *Submission 61*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Osborne Park Geriatric Medicine Service WA *Submission 100*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Aged Services Association NSW *Submission 267*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
276 Focus groups report.
277 Of the 58 submissions that addressed this issue directly 44 agreed.
278 See eg Family Research Action Centre VIC *Submission 229*; Dr J Neal TAS *Submission 213*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
279 Home Care Services of NSW *Submission 104*; Anglican Community Services SA *Submission 199*; Alzheimer's Association, Victoria VIC *Submission 228*; Council on the Ageing QLD *Submission 247*; Council on the Ageing (Australia) VIC *Submission 185*.
280 Department of Human Services and Health, Brisbane QLD *Submission 121*; Department of Community and Health Services TAS *Submission 189*; Minister for Health QLD *Submission 231*.
281 Minister for Health QLD *Submission 231*.
282 Confidential SA *Submission 61*; Network of Home and Community Based Services WA *Submission 74*; Council on the Ageing (Australia) VIC *Submission 185*.
283 Confidential SA *Submission 61*.
284 Central Australian Advocacy Service NT *Submission 78*.
285 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Department of Human Services and Health, Brisbane QLD *Submission 121*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; T Howlett WA *Submission 299*.
286 New South Wales Nurses' Association NSW *Submission 99*; Older Persons Rights Service (Inc) WA *Submission 105*.
287 Family Research Action Centre VIC *Submission 229*.
288 Ethnic Committees Council of ACT *Submission 285*.
289 All but one of the submissions that specifically address this issue support this approach.
290 See eg Department of Human Services and Health, Brisbane QLD *Submission 121* and Brisbane consultations.
291 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Department of Human Services and Health, Brisbane QLD *Submission 121*.
292 Minister for Health QLD *Submission 231*.
293 See para 5.18.
294 Guidelines state that the primary purpose of Assessment Teams is to assist older people to gain access to the types of services most appropriate to meet their care needs. The guidelines refer to the fact that teams assess a range of needs 'in order to assist them to choose the most appropriate combination of services to meet their needs'. They also set out referral to available services and focus on potential restoration of functional ability as their objective.
295 See eg C Dewan VIC *Submission 14*; Law Society of ACT *Submission 76*; Townsville Committee on the Ageing QLD *Submission 90*; New South Wales Nurses' Association NSW *Submission 99*; Older Persons Rights Service (Inc) WA *Submission 105*; J Mom QLD *Submission 123*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; 'Domino' (a pseudonym) *Submission 164*; Australian Association of Social Workers Ltd WA *Submission 165*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
296 Law Society of ACT *Submission 76*.
297 Southern Adelaide Aged Care Assessment Team SA *Submission 84*.
298 Home Care Services of NSW *Submission 104*.
299 Aged Care Australia Inc ACT *Submission 178*.
300 Metropolitan Municipal Association VIC *Submission 108*.
301 Council on the Ageing (Australia) VIC *Submission 185*.
302 Metropolitan Municipal Association VIC *Submission 108*.
303 Council on the Ageing (Australia) VIC *Submission 185*.
304 See para 2.46-49.
305 Migrant Resource Centre, Inner Western Region VIC *Submission 120*; C Fehring VIC *Submission 122*; Older Women's Network (Australia) Inc NSW *Submission 170*; Migrant Resource Centre TAS *Submission 205*; Ethnic Communities Council of Western Australia *Submission 262*; Adelaide and Cairns consultations.
306 Migrant Resource Centre, Inner Western Region VIC *Submission 120*.
307 See eg Migrant Resource Centre TAS *Submission 205*; Bunbury and Brisbane consultations.
308 Australian Pensioners and Superannuants League in Queensland QLD *Submission 251*; Ethnic Committees Council of ACT *Submission 285*.
309 See eg Hobart consultations.
310 Council on the Ageing QLD *Submission 247*.
311 Council on the Ageing (Australia) VIC *Submission 185*.
312 L Bertelli VIC *Submission 169*.
313 National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.
314 See eg Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing QLD *Submission 247*.
315 Osborne Park Geriatric Medicine Service WA *Submission 100*; Migrant Resource Centre, Inner Western Region VIC *Submission 120*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
316 Osborne Park Geriatric Medicine Service WA *Submission 100*; Migrant Resource Centre, Inner Western Region VIC *Submission 120*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
317 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
318 Migrant Resource Centre, Inner Western Region VIC *Submission 120*.

319 Australian Greek Society for Care of the Elderly VIC *Submission 136*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Ethnic Communities Council of New South Wales NSW *Submission 280*; Ethnic Committees Council of ACT *Submission 285*.
 320 Ethnic Committees Council of ACT *Submission 285*; see also Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.
 321 Australian Greek Society for Care of the Elderly VIC *Submission 136*.
 322 Ethnic Communities Council of New South Wales *Submission 280*.
 323 Ethnic Committees Council of ACT *Submission 285*.
 324 Migrant Resource Centre, Inner Western Region VIC *Submission 120*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*.
 325 Ethnic Communities Council of New South Wales NSW *Submission 280*.
 326 Council on the Ageing (Australia) VIC *Submission 185*.
 327 Migrant Resource Centre TAS *Submission 205*.
 328 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Australian Association of Social Workers Ltd WA *Submission 165*; Older Women's Network (Australia) Inc NSW *Submission 170*; Council on the Ageing QLD *Submission 247*; Australian Pensioners 'and Superannuants' League in Queensland QLD *Submission 251*; Ethnic Committees Council of ACT *Submission 285*.
 329 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Older Women's Network (Australia) Inc NSW *Submission 170*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; D Port TAS *Submission 214*; Ethnic Communities Council of Western Australia *Submission 262*; Ethnic Committees Council of ACT *Submission 285*.
 330 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing QLD *Submission 247*; Australian Pensioners and Superannuants League in Queensland QLD *Submission 251*; Ethnic Committees Council of ACT *Submission 285*.
 331 Ethnic Communities Council of Western Australia *Submission 262*.
 332 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Salvation Army VIC *Submission 141*; Migrant Resource Centre TAS *Submission 205*; Ethnic Communities Council of Queensland *Submission 245*; Ethnic Communities Council of Western Australia *Submission 262*; Ethnic Committees Council of ACT *Submission 285*; Brisbane consultations.
 333 Ethnic Communities Council of Queensland *Submission 245*.
 334 Ethnic Communities Council of Western Australia *Submission 262*.
 335 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; D Port TAS *Submission 214*; Ethnic Committees Council of ACT *Submission 285*.
 336 Migrant Resource Centre TAS *Submission 205*.
 337 Sisters of Mercy Administration QLD *Submission 144*.
 338 Southern Adelaide Aged Care Assessment Team SA *Submission 84*.
 339 Older Women's Network (Australia) Inc NSW *Submission 170*.
 340 National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*.
 341 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.
 342 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; see also Ethnic Aged Care Advisory Committee NSW *Submission 101*.
 343 Australian Pensioners' and Superannuants' League QLD *Submission 86*.
 344 Ethnic Aged Care Advisory Committee NSW *Submission 101*.
 345 The Inter-Departmental Committee on Aged Care Services included representatives from the Department, ATSIC, Aboriginal Hostels Ltd and Departments of Finance, Prime Minister and Cabinet and Social Security (IDC Consultations).
 346 *Community Consultations About Aged Care for Aboriginal and Torres Strait Islander Peoples* Department of Human Services and Health 1994.
 347 A 1994 budget initiative³ for the period 94/5-97/8. The strategy will be evaluated in 96/97.
 348 *Aged Care for Aboriginal and Torres Strait Islander Peoples 1994 Budget Strategy* Department of Human Services and Health 1994.
 349 See eg Yarrabah Community Council, Aged Persons Hostel QLD *Submission 304*.
 350 See eg Perth consultations.
 351 Some Aboriginal people coming to town from remote communities to get residential services 'cry all day every day': Katherine consultations.
 352 Walumba Hostel Turkey Creek WA *Submission 29*; Desert Triangle Workshop; IDC Consultations.
 353 Gungyah Ngallingnee Housing Corporation NSW *Submission 302*.
 354 Walumba Hostel Turkey Creek WA *Submission 29*.
 355 Cairns consultations.
 356 Australian Pensioners' & Superannuants' Federation *Aged Care - What residents say: report of focus groups conducted with residents of nursing homes and hostels* prepared for the Australian Law Reform Commission November 1994 (Focus groups report).
 357 Tumbukka Regional Council VIC *Submission 303*.
 358 Walumba Hostel Turkey Creek WA *Submission 29*; Aboriginal Community Elders Services VIC *Submission 233*; Desert Triangle Workshop; IDC Consultations.
 359 Aboriginal Community Elders Services VIC *Submission 233*.
 360 Katherine consultations.
 361 Desert Triangle Workshop; IDC consultations.
 362 Katherine consultations.
 363 Desert Triangle Workshop.
 364 Desert Triangle Workshop; IDC consultations.
 365 See eg Katherine consultations.
 366 Desert Triangle Workshop.
 367 Tumbukka Regional Council VIC *Submission 303*; IDC consultations; Desert Triangle Workshop.
 368 Katherine consultations.
 369 Focus groups report.
 370 Yarrabah Community Council, Aged Persons Hostel QLD *Submission 304*; see also Australian Pensioners 'and Superannuants' League in Queensland *Submission 251*.
 371 Focus groups report.
 372 Walumba Hostel Turkey Creek WA *Submission 29*; Desert Triangle Workshop; IDC Consultations.
 373 Australian Pensioners' and Superannuants' League QLD *Submission 86*.
 374 Central Australian Advocacy Service NT *Submission 78*.
 375 Focus groups report.
 376 Desert Triangle Workshop.
 377 Desert Triangle Workshop.

378 Focus groups report.
 379 Aboriginal Community Elders Services VIC *Submission 233*; IDC Consultations; Desert Triangle Workshop; Focus groups report.
 380 Aboriginal Community Elders Services VIC *Submission 233*.
 381 IDC consultations, Desert Triangle Workshop.
 382 Australian Pensioners' and Superannuants' League in Queensland *Submission 251*; Yarrabah Community Council, Aged Persons Hostel QLD *Submission 304*; IDC consultations.
 383 Katherine consultations.
 384 Cairns consultations.
 385 At the time of publication there were 35 multi-purpose centres operating across Australia.
 386 At the time of publication 13 multi-purpose services were approved. The Department reports that local community reaction to the development of these services has been very positive.
 387 See para 2.25; 2.27; 2.37; 2.43.
 388 See eg Brisbane consultations.
 389 Confidential NSW *Submission 133*.
 390 Confidential SA *Submission 61*.
 391 See eg Country Women's Association of Western Australia (Inc) WA *Submission 127*.
 392 Confidential SA *Submission 61*; J Ambrose VIC *Submission 227*.
 393 See eg Sydney, Brisbane and Darwin consultations.
 394 J Mitchell NSW *Submission 277*.
 395 Darwin consultations.
 396 J Ambrose VIC *Submission 227*; see also Cooktown Health Action Group QLD *Submission 36*; Perth consultations.
 397 Confidential SA *Submission 61*.
 398 Council on the Ageing NT *Submission 238*.
 399 Department of Human Services and Health, Brisbane QLD *Submission 121*.
 400 Kelvin Dickens Consulting Service SA *Submission 87*; FM Barker and L R Harding SA *Submission 156*.
 401 Kelvin Dickens Consulting Service SA *Submission 87*.
 402 Australian Greek Society for Care of the Elderly VIC *Submission 136*; The Accommodation Rights Service Inc NSW *Submission 187*.
 403 Older Women's Network (Australia) Inc NSW *Submission 170*; Ethnic Communities Council of Western Australia WA *Submission 262*.
 404 Older Women's Network (Australia) Inc NSW *Submission 170*.
 405 Central Australian Advocacy Service NT *Submission 78*; see also Inner South Community Health Service VIC *Submission 79*; Older Women's Network (Australia) Inc NSW *Submission 170*; Older Persons' Action Centre Inc VIC *Submission 117*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.
 406 Home Care Services of NSW *Submission 104*; L Bertelli VIC *Submission 169*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Department of Community and Health Services TAS *Submission 189*; Department of Immigration and Ethnic Affairs ACT *Submission 221*; Ethnic Committees Council of ACT *Submission 285*; Yarrabah Community Council, Aged Persons Hostel QLD *Submission 304*.
 407 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.
 408 See eg Migrant Resource Centre TAS *Submission 205*; D Port TAS *Submission 214*.
 409 See eg Network of Home and Community Based Services WA *Submission 74*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Department of Immigration and Ethnic Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*; Osborne Park Hospital WA *Submission 166*; L Bertelli VIC *Submission 169*; Migrant Resource Centre TAS *Submission 205*.
 410 L Bertelli VIC *Submission 169*.
 411 Migrant Resource Centre TAS *Submission 205*.
 412 See eg Liverpool Health Service NSW *Submission 43*; NSW Council of Senior Citizens Associations NSW *Submission 63*; NSW Retired Teachers Association NSW *Submission 65*; Home Care Services of NSW *Submission 104*; Combined Pensioners and Superannuants Association of NSW (Inc) *Submission 118*; Australian Greek Society for Care of the Elderly VIC *Submission 136*; Salvation Army VIC *Submission 141*; Older Women's Network (Australia) Inc NSW *Submission 170*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Maltese Community Council of NSW *Submission 225*.
 413 FM Barker and L R Harding SA *Submission 156*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
 414 Home Care Services of NSW *Submission 104*; Department of Community and Health Services TAS *Submission 189*.
 415 The Accommodation Rights Service Inc NSW *Submission 187*.
 416 Australian Nursing Homes and Extended Care Association NSW *Submission 274*.
 417 Council on the Ageing (Australia) VIC *Submission 185*.
 418 Townsville Committee on the Ageing QLD *Submission 90*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Salvation Army VIC *Submission 141*.
 419 Walumba Hostel Turkey Creek WA *Submission 29*.
 420 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.
 421 KC Lambert WA *Submission 85*.
 422 Anglican Community Services SA *Submission 199*.
 423 See para 3.10; 14.12-16.
 424 See para 6.4.
 425 See eg P Kamsma VIC *Submission 8*; Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Liverpool Health Service NSW *Submission 43*; P Gleeson *Submission 81*; KC Lambert WA *Submission 85*; G McGroder NSW *Submission 98*; Salvation Army VIC *Submission 141*; FM Barker and L R Harding SA *Submission 156*; Australian Association of Social Workers Ltd WA *Submission 165*; Council on the Ageing QLD *Submission 247*.
 426 See eg Baptist Homes WA *Submission 102*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.
 427 L Bertelli VIC *Submission 169*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.
 428 Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.
 429 Older Women's Network (Australia) *Submission 170*.
 430 Department of Human Services and Health, Brisbane QLD *Submission 121*; Aged Care Australia Inc ACT *Submission 178*.
 431 Department of Community and Health Services TAS *Submission 189*.

432 See para 7.15.
433 See para 6.45.
434 Confidential SA *Submission 61*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Department of Community and Health Department of Human Services and Health, Brisbane QLD *Submission 121*; Australian Association of Social Workers Ltd WA *Submission 165*; Council on the Ageing QLD *Submission 247*; Adelaide, Canberra, Brisbane, Melbourne and Hobart consultations.
435 Confidential SA *Submission 61*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Australian Association of Social Workers Ltd WA *Submission 165*; Hobart, Adelaide and Sydney consultations.
436 Australian Association of Social Workers Ltd WA *Submission 165*.
437 Confidential SA *Submission 61* ; KC Lambert WA *Submission 85*; Older Persons' Action Centre Inc VIC *Submission 117*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Adelaide consultations. In its Perth consultations the Commission was told that some hostels would rather have empty places than use them for people who are financially disadvantaged.
438 KC Lambert WA *Submission 85*.
439 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
440 Aged Care Australia Inc ACT *Submission 178*; Melbourne, Katherine, Bunbury and Darwin consultations.
441 Australian Pensioners' and Superannuants' League QLD *Submission 86*.
442 See eg Bunbury consultations.
443 Aged Care Australia Inc ACT *Submission 178*.
444 See eg Aged Care Australia Inc ACT *Submission 178*.
445 P Kamsma VIC *Submission 8*.
446 Churches of Christ In Queensland Social Service Department QLD *Submission 31*.
447 L Bertelli VIC *Submission 169*.
448 G McGroder NSW *Submission 98*; Sydney consultations.
449 Older Persons' Action Centre Inc VIC *Submission 117*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Ethnic Communities Council of New South Wales NSW *Submission 280*.
450 Australian Association of Social Workers Ltd WA *Submission 165*.
451 G McGroder NSW *Submission 98*.
452 Katherine and Sydney consultations.
453 Katherine consultations.
454 Focus groups report.
455 Department of Human Services and Health, Brisbane QLD *Submission 121*.
456 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.
457 Sydney consultations.
458 Mayflower Retirement Village NSW *Submission 6*; FJ Campbell WA *Submission 60*; Kelvin Dickens Consulting Service SA *Submission 87*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Sydney and Dubbo consultations.
459 Kelvin Dickens Consulting Service SA *Submission 87*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.
460 Alzheimer's Association (Australia) Inc NSW *Submission 175*.
461 Department of Health Housing and Community Services Mid Term Review of the Aged Care Reform Strategy Stage 2 1991-1992 *Putting the Pieces Together, A National Action Plan for Dementia Care* AGPS Canberra 1992, 35.
462 A five year plan for the period 1992-3 to 1996-7.
463 Municipal Association of Victoria VIC *Submission 53*; Wesley Central Mission QLD *Submission 64*; Anonymous *Submission 68*; Prince of Wales Hospital NSW *Submission 80*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; G McGroder NSW *Submission 98*; Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Old Colonists Association VIC *Submission 215*; Melbourne consultations.
464 Anonymous *Submission 68*.
465 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.
466 Confidential NSW *Submission 46*; D Ewin VIC *Submission 58*; Aged Services Association NSW *Submission 267*; Alzheimer's Association NSW *Submission 276*.
467 The Accommodation Rights Service Inc NSW *Submission 187*; Dubbo and Perth consultations.
468 Dubbo consultations.
469 Alzheimer's Association (Australia) Inc NSW *Submission 175*.
470 D Ewin VIC *Submission 58*.
471 Focus groups report.
472 Dr RB Lefroy WA *Submission 2*; Wesley Central Mission QLD *Submission 64*; Anonymous *Submission 68*; Alzheimer's Association (Australia) Inc NSW *Submission 175*.
473 Dr RB Lefroy WA *Submission 2*.
474 Anonymous *Submission 68*.
475 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council on the Ageing (Australia) VIC *Submission 185*; Dr D Stewart QLD *Submission 243*; Salvation Army Burrangiri Centre ACT *Submission 294*; Sydney and Dubbo consultations.
476 The Accommodation Rights Service Inc NSW *Submission 187*.
477 Focus groups report.
478 Alzheimer's Association (Australia) Inc NSW *Submission 175*.
479 Dr RB Lefroy WA *Submission 2*; Mayflower Retirement Village NSW *Submission 6*; C Dewan VIC *Submission 14*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Confidential NSW *Submission 46*; D Ewin VIC *Submission 58*; FJ Campbell WA *Submission 60*; H Wilkins NSW *Submission 75*; Central Australian Advocacy Service NT *Submission 78*; Prince of Wales Hospital NSW *Submission 80*; KC Lambert WA *Submission 85*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Alzheimer's Association, Victoria VIC *Submission 228*; Alzheimer's Association of Queensland *Submission 241*; Aged Services Association NSW *Submission 267*; Alzheimer's Association NSW *Submission 276*; Salvation Army Burrangiri Centre ACT *Submission 294*; L Russell ACT *Submission 295*.
480 D Ewin VIC *Submission 58*; FJ Campbell WA *Submission 60*; Salvation Army Burrangiri Centre ACT *Submission 294*; L Russell ACT *Submission 295*.
481 Dr RB Lefroy WA *Submission 2*.
482 Confidential NSW *Submission 46*.
483 H Wilkins NSW *Submission 75*; KC Lambert WA *Submission 85*.
484 Prince of Wales Hospital NSW *Submission 80*.
485 Alzheimer's Association NSW *Submission 276*.

486 Alzheimer's Association (Australia) Inc NSW *Submission 175*.
 487 Prince of Wales Hospital NSW *Submission 80*; G McGroder NSW *Submission 98*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; The Accommodation Rights Service Inc NSW *Submission 187*.
 488 Dubbo consultations.
 489 Alzheimer's Association (Australia) Inc NSW *Submission 175*; Alzheimer's Association NSW *Submission 276*.
 490 Old Colonists Association VIC *Submission 215*.
 491 Alzheimer's Association (Australia) Inc NSW *Submission 175*.
 492 Challenge Armidale Ltd NSW *Submission 4*; Endeavour Foundation QLD *Submission 129*; Salvation Army VIC *Submission 141*; Aged Care Australia Inc ACT *Submission 178*; Sydney consultations.
 493 Challenge Armidale Ltd NSW *Submission 4*.
 494 eg the Northern Territory.
 495 C Stephens VIC *Submission 23*; Darwin consultations.
 496 Footscray Society for the Aged (Inc) VIC *Submission 116*; Darwin consultations.
 497 Sydney consultations.
 498 C Stephens VIC *Submission 23*
 499 Australian Pensioners' and Superannuants' League QLD *Submission 86*.
 500 The 1994 National Forum on Ageing and Disability: Challenge Armidale Ltd NSW *Submission 4*.
 501 Endeavour Foundation QLD *Submission 129*.
 502 Aged Care Australia Inc ACT *Submission 178*.
 503 For example, if the Act is interpreted strictly veterans are not covered by user rights obligations imposed on a service if resident agreements are not entered into (although in practice the Minister imposes alternative conditions of approval to make sure this happens).
 504 See eg NSW Council of Senior Citizens Associations NSW *Submission 63*; NSW Retired Teachers Association NSW *Submission 65*; Humanist Society of Victoria Inc VIC *Submission 66*; Central Australian Advocacy Service NT *Submission 78*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Royal Australian College of General Practitioners QLD *Submission 125*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Australian Nursing Federation National VIC *Submission 142*; Australian Association of Social Workers Ltd WA *Submission 165*; Older Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; The Accommodation Rights Service Inc NSW *Submission 187*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; J Ambrose VIC *Submission 227*.
 505 Department of Human Services and Health, Brisbane QLD *Submission 121*.
 506 Metropolitan Municipal Association VIC *Submission 108*.
 507 Country Women's Association of Western Australia (Inc) WA *Submission 127*.
 508 Sydney consultations.
 509 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; P Gleeson *Submission 81*; ABRI Home for the Aged NSW *Submission 110*; Residents of ABRI Hostel QLD *Submission 111*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; FM Barker and LR Harding SA *Submission 156*; A Courtis WA *Submission 177*; Returned & Services League of Australia Ltd ACT *Submission 182*; Australian Veterans and Defence Services Council NSW *Submission 263*.
 510 FJ Campbell WA *Submission 60*; ABRI Home for the Aged NSW *Submission 110*; Residents of ABRI Hostel QLD *Submission 111*; Returned & Services League of Australia Ltd ACT *Submission 182*; Australian Veterans and Defence Services Council NSW *Submission 263*; Cairns consultations.
 511 Returned & Services League of Australia Ltd ACT *Submission 182*.
 512 P Gleeson *Submission 81*.
 513 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.
 514 P Gleeson NSW *Submission 17*.
 515 A taskforce, including representatives from the Department and the DVA, has been established to investigate specialist veterans' aged care services. One of the terms of reference is to delineate the respective roles of these Departments in the provision of aged care services for veterans. At the time of publication of this report the taskforce was due to report to the relevant Ministers in mid February 1995.
 516 See para 1.8.
 517 See eg NSW Council of Senior Citizens Associations NSW *Submission 63*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Townsville Committee on the Ageing QLD *Submission 90*; Baptist Homes WA *Submission 102*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Council on the Ageing QLD *Submission 247*; Australian Pensioners and Superannuants League in Queensland QLD *Submission 251*.
 518 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Central Australian Advocacy Service NT *Submission 78*; Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Older Persons Rights Service (Inc) WA *Submission 105*; N Jamieson TAS *Submission 154*; NSW Health Department *Submission 155*; Australian Association of Social Workers Ltd WA *Submission 165*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*.
 519 Central Australian Advocacy Service NT *Submission 78*; NSW College of Nursing NSW *Submission 106*.
 520 Minister for Health QLD *Submission 231*.
 521 KC Lambert WA *Submission 85*; Older Persons Rights Service (Inc) WA *Submission 105*.
 522 Australian Association of Social Workers Ltd WA *Submission 165*.
 523 The amount an organisation gets to provide a person with a Care Package: Australian Nursing Federation, Victorian Branch VIC *Submission 119*.
 524 See eg Central Australian Advocacy Service NT *Submission 78*.
 525 See eg Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*; Maltese Community Council of NSW *Submission 225*; Ethnic Committees Council of ACT *Submission 285*.
 526 See eg Central Australian Advocacy Service NT *Submission 78*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Australian Nursing Federation, National VIC *Submission 142*.

Aboriginal participants in the focus groups say that services like Care Packages assume people have a 'home' of their own and that this might not be the case: Focus groups report.

527 See eg NSW Council of Senior Citizens Associations NSW *Submission 63*; Central Australian Advocacy Service NT *Submission 78*; Australian Nursing Federation, National VIC *Submission 142*; Top End Advocacy Service NT *Submission 180*; Council on the Ageing (Australia) VIC *Submission 185*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Sydney and Hobart consultations.

528 See eg Southern Adelaide Aged Care Assessment Team SA *Submission 84*; G McGroder NSW *Submission 98*; FM Barker and LR Harding SA *Submission 156*; Aged Care Australia Inc ACT *Submission 178*.

529 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Aged Care Australia Inc ACT *Submission 178*.

530 The Accommodation Rights Service Inc NSW *Submission 187*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

531 The Accommodation Rights Service Inc NSW *Submission 187*.

532 See eg Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Brisbane South Regional Health Authority QLD *Submission 128*; Australian Association of Social Workers Ltd WA *Submission 165*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*.

533 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; ABRI Home for the Aged NSW *Submission 110*; Residents of ABRI Hostel QLD *Submission 111*; Salvation Army VIC *Submission 141*; N Jamieson TAS *Submission 154*; Aged Care Australia Inc ACT *Submission 178*.

534 Salvation Army VIC *Submission 141*; Aged Care Australia Inc ACT *Submission 178*.

535 Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*.

536 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; NSW Council of Senior Citizens Associations NSW *Submission 63*; KC Lambert WA *Submission 85*; Kelvin Dickens Consulting Service SA *Submission 87*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.

537 Australian Pensioners' & Superannuants' Federation *Aged Care - What residents say: report of focus groups conducted with residents of nursing homes and hostels* prepared for the Australian Law Reform Commission November 1994 (Focus groups report).

538 J Mom QLD *Submission 123*; Older Persons Rights Service (Inc) WA *Submission 105*; Council on the Ageing (Australia) VIC *Submission 185*.

539 Council on the Ageing (Australia) VIC *Submission 185*.

540 Confidential SA *Submission 61*; Older Persons Rights Service (Inc) WA *Submission 105*; Council on the Ageing (Australia) VIC *Submission 185*.

541 Council on the Ageing (Australia) VIC *Submission 185*.

542 *Home But Not Alone - Report on the Home and Community Care Program* House of Representatives Standing Committee on Community Affairs AGPS 1994.

543 See eg Department of Community and Health Services TAS *Submission 189*; Brisbane and Katherine consultations.

544 See eg Brisbane consultations.

545 See eg Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Association of Social Workers Ltd WA *Submission 165*; Council on the Ageing (Australia) VIC *Submission 185*; Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*; *The Accommodation Rights Service Inc NSW Submission 187*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Hobart and Adelaide consultations.

546 Dr B Draper NSW *Submission 20*; Osborne Park Geriatric Medicine Service WA *Submission 100*; Home Care Services of NSW *Submission 104*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

547 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.

548 Department of Community and Health Services TAS *Submission 189*.

549 Home Care Services of NSW *Submission 104*, see also Ethnic Communities Council of New South Wales NSW *Submission 280*.

550 Sydney consultations.

551 Minister for Health QLD *Submission 231*.

552 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Kelvin Dickens Consulting Service SA *Submission 87*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*; Cairns and Hobart consultations.

553 Australian Nursing Federation, National VIC *Submission 142*; Melbourne and Perth consultations.

554 Council on the Ageing (Australia) VIC *Submission 185*.

555 Brisbane consultations.

556 Adelaide consultations.

557 D Ewin VIC *Submission 58*; Council on the Ageing (Australia) VIC *Submission 185*; Community Options Victoria VIC *Submission 217*; Hobart consultations.

558 Municipal Association of Victoria VIC *Submission 53*.

559 Hobart consultations.

560 Council on the Ageing (Australia) VIC *Submission 185*.

561 Perth consultations.

562 Municipal Association of Victoria VIC *Submission 53*; Melbourne consultations.

563 This three year pilot is due for completion in 1996 and will be evaluated.

564 Katherine consultations.

565 Darwin consultations.

566 The NPY Women's Council says that Commonwealth Respite for Carers funding can be used to buy equipment for individuals, for community facilities for example to modify a clinic or build women's centre showers and to pay others in the community to provide respite care while carers are away or if they need a rest.

567 See eg Freemasons Homes For the Aged (Inc) WA *Submission 42*; Liverpool Health Service NSW *Submission 43*; NSW Council of Senior Citizens Associations NSW *Submission 63*; NSW Retired Teachers Association NSW *Submission 65*; Central Australian Advocacy Service NT *Submission 78*; Australian Nursing Federation, National VIC *Submission 142*; Catholic Womens League Australia ACT *Submission 161*; Australian Association of Social Workers Ltd WA *Submission 165*; Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW *Submission 168*; Older Women's Network (Australia) Inc NSW *Submission 170*; Carers Association of NSW Inc *Submission*

173; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Advisory Committee on Abuse of Older People NSW *Submission 184*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*; Aboriginal Community Elders Services VIC *Submission 233*; Carers' Association in Victoria VIC *Submission 235*; Council on the Ageing QLD *Submission 247*.

568 Confidential SA *Submission 61*; B Ottley NSW *Submission 93*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Carers Association of NSW Inc *Submission 173*; Carers Association of Australia Inc ACT *Submission 160*; Carers Association of Tasmania Inc TAS *Submission 207*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*; Aboriginal Community Elders Services VIC *Submission 233*; Council on the Ageing QLD *Submission 247*; Hobart, Cairns, Adelaide, Bunbury, Brisbane and Sydney consultations.

569 Confidential SA *Submission 61*; Southern Adelaide Aged Care Assessment Team SA *Submission 84*; B Ottley NSW *Submission 93*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*; Carers Association of Australia Inc ACT *Submission 160*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Minister for Health QLD *Submission 231*; Aboriginal Community Elders Services VIC *Submission 305*; Darwin consultations.

570 Aboriginal Community Elders Services VIC *Submission 233*.

571 Council on the Ageing QLD *Submission 247*.

572 Focus groups report.

573 See eg Osborne Park Geriatric Medicine Service WA *Submission 100*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Home Care Services of NSW *Submission 104*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Australian Association of Social Workers Ltd WA *Submission 165*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Macarthur Carers' Support Group NSW *Submission 193*; Australian Pensioners' and Superannuants' League in Queensland QLD *Submission 251*; Salvation Army Burrangiri Centre ACT *Submission 294*; Hobart, Adelaide and Brisbane consultations.

574 See eg Kelvin Dickens Consulting Service SA *Submission 87*; G McGroder NSW *Submission 98*; Osborne Park Geriatric Medicine Service WA *Submission 100*; Australian Association of Social Workers Ltd WA *Submission 165*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*.

575 Tweed Heads consultations.

576 See eg Older Persons' Action Centre Inc VIC *Submission 117*; N Jamieson TAS *Submission 154*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Macarthur Carers' Support Group NSW *Submission 193*.

577 See eg Freemasons Homes For the Aged (Inc) WA *Submission 42*; see also Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Association of Social Workers Ltd WA *Submission 165*; L Bertelli VIC *Submission 169*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*; Aged Services Association NSW *Submission 267*; Ethnic Committees Council of ACT *Submission 285*; Cairns consultations.

578 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Australian Association of Social Workers Ltd WA *Submission 165*; Council on the Ageing (Australia) VIC *Submission 185*.

579 FJ Campbell WA *Submission 60*; see also Townsville Committee on the Ageing QLD *Submission 90*.

580 Confidential SA *Submission 61*.

581 Logan Regional Resource Centre Inc QLD *Submission 21*.

582 Council on the Ageing (Australia) VIC *Submission 185*.

583 Macarthur Carers' Support Group NSW *Submission 193*.

584 Freemasons Homes For the Aged (Inc) WA *Submission 42*; see also Cairns consultations.

585 Confidential SA *Submission 49*; Older Persons Rights Service (Inc) WA *Submission 105*; J Ambrose VIC *Submission 227*.

586 Older Persons Rights Service (Inc) WA *Submission 105*; see also Council on the Ageing (Australia) VIC *Submission 185*; J Ambrose VIC *Submission 227*; Minister for Health QLD *Submission 231*; Darwin consultations.

587 Perth consultations.

588 N Jamieson TAS *Submission 154*.

589 Kelvin Dickens Consulting Service SA *Submission 87*; Osborne Park Geriatric Medicine Service WA *Submission 100*; Older Persons' Action Centre Inc VIC *Submission 117*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*.

590 See eg PE Pearsall QLD *Submission 25*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Central Australian Advocacy Service NT *Submission 78*; ACOA Residents Group SA *Submission 137*; Older Women's Network (Australia) Inc NSW *Submission 170*; Council on the Ageing (Australia) VIC *Submission 185*; Katherine and Perth consultations.

591 Older Women's Network (Australia) Inc NSW *Submission 170*.

592 KC Lambert WA *Submission 85*.

593 NSW Retired teachers association NSW *Submission 65*; Central Australian Advocacy service NT *Submission 78*; Australian nursing federation, National VIC *Submission 142*; Top End Advocacy Service NT *Submission 180*; Returned & Services League of Australia Ltd ACT *Submission 182*; J Ambrose VIC *Submission 227*; Alzheimers Association of Queensland QLD *Submission 241*; Darwin and Cairns consultations.

594 A Courtis WA *Submission 177*.

595 Central Australian Advocacy service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Council on the Ageing (Australia) VIC *Submission 185*; Alzheimer's Association of Queensland QLD *Submission 241*.

596 Ethnic Aged care Advisory Committee NSW *Submission 101*.

597 Returned & Services League of Australia Ltd ACT *Submission 182*.

598 Confidential QLD *Submission 195*.

599 Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, National VIC *Submission 142*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Top End Advocacy Service NT *Submission 180*; Katherine consultations.

600 Top End Advocacy Service NT *Submission 180*; Katherine consultations.

601 Katherine consultations.

602 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Australian Association of Social Workers Ltd WA *Submission 165*; Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW *Submission 168*; L Bertelli VIC *Submission 169*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*; Ethnic Committees Council of ACT *Submission 285*.

603 Morwell consultations.

604 Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW *Submission 168*.

605 C Attard ACT *Submission 290*.

606 See eg B Hawes NSW *Submission 35*; Townsville Committee on the Ageing QLD *Submission 90*; Aged Care Australia Inc ACT *Submission 178*; Osborne Park Geriatric Medicine Service WA *Submission 100*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Council on the Ageing (Australia) VIC *Submission 185*; M Mayberry VIC *Submission 232*; Alzheimer's Association of Queensland QLD *Submission 241*; Alzheimer's Association NSW *Submission 276*; Cairns and Adelaide consultations.

607 Townsville Committee on the Ageing QLD *Submission 90*.

608 Alzheimer's Association (Australia) Inc NSW *Submission 175*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association NSW *Submission 276*.

609 M Mayberry VIC *Submission 232*.

610 Confidential SA *Submission 49*; Alzheimer's Association (Australia) Inc NSW *Submission 175*.

611 Inner South Community Health Service VIC *Submission 79*.

612 Inner South Community Health Service VIC *Submission 79*; Prince of Wales Hospital NSW *Submission 80*; Townsville Committee on the Ageing QLD *Submission 90*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Council on the Ageing (Australia) VIC *Submission 185*; Cairns consultations.

613 Confidential SA *Submission 49*; Council on the Ageing (Australia) VIC *Submission 185*.

614 Confidential SA *Submission 49*.

615 Confidential SA *Submission 61*; Macarthur Carers' Support Group NSW *Submission 193*; Hobart consultations.

616 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Perth consultations.

617 See eg Osborne Park Geriatric Medicine Service WA *Submission 100*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Baptist Homes WA *Submission 102*; Older Persons Rights Service (Inc) WA *Submission 105*; Residents of ABRI Hostel QLD *Submission 111*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Older Persons' Action Centre Inc VIC *Submission 117*; Department of Human Services and Health, Brisbane QLD *Submission 121*; C Fehring VIC *Submission 122*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Australian Nursing Federation, National VIC *Submission 142*; National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; Australian Geriatrics Society NSW Division *Submission 150*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*; Alzheimer's Association, Victoria VIC *Submission 228*.

618 See eg Dr M Dunstone SA *Submission 19*; FJ Campbell WA *Submission 60*; Central Australian Advocacy Service NT *Submission 78*; Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Baptist Homes WA *Submission 102*; Australian Nursing Federation, National VIC *Submission 142*; Australian Geriatrics Society NSW Division *Submission 150*; Australian Association of Social Workers Ltd WA *Submission 165*; Aged Care Australia Inc ACT *Submission 178*; J Ryall and V Newman TAS *Submission 210*; Victorian Aged Care Assessment Team Liaison Group VIC *Submission 219*.

619 C Fehring VIC *Submission 122*; Sisters of Mercy Administration QLD *Submission 144*; National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; Australian Geriatrics Society NSW Division *Submission 150*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Sydney consultations.

620 Footscray Society for the Aged (Inc) VIC *Submission 116*.

621 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

622 Hobart and Brisbane consultations.

623 See eg Australian Nursing Federation, National VIC *Submission 142*; Australian Geriatrics Society NSW Division *Submission 150*; N Jamieson TAS *Submission 154*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Confidential QLD *Submission 195*.

624 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

625 J Ryall and V Newman TAS *Submission 210*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

626 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Salvation Army VIC *Submission 141*; Aged Care Australia Inc ACT *Submission 178*; J Ryall and V Newman TAS *Submission 210*.

627 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Alzheimer's Association, Western Australia WA *Submission 260*.

628 Salvation Army VIC *Submission 141*; see also Footscray Society for the Aged (Inc) VIC *Submission 116*; Aged Care Australia Inc ACT *Submission 178*.

629 Australian Pensioners' and Superannuants' League QLD *Submission 86*.

630 Ethnic Aged Care Advisory Committee NSW *Submission 101*; Older Persons' Action Centre Inc VIC *Submission 117*; N Jamieson TAS *Submission 154*.

631 NSW College of Nursing NSW *Submission 106*; Department of Human Services and Health, Brisbane QLD *Submission 121*.

632 Dr B Draper NSW *Submission 20*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.

633 Residents of ABRI Hostel QLD *Submission 111*.

634 Carers Association of Australia Inc ACT *Submission 160*.

635 B Otley NSW *Submission 93*; Council on the Ageing QLD *Submission 247*; M Mayberry VIC *Submission 232*.

636 Kelvin Dickens Consulting Service SA *Submission 87*; ACOA Residents Group SA *Submission 137*; Adelaide consultations.

637 B Otley NSW *Submission 93*; see also Department of Community and Health Services TAS *Submission 189*.

638 Council on the Ageing (Australia) VIC *Submission 185*; Council on the Ageing QLD *Submission 247*; Tweed Heads consultations.

639 Carers Association of Australia Inc ACT *Submission 160*.

640 Department of Community and Health Services TAS *Submission 189*.

641 Dr M Dunstone SA *Submission 19*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; KC Lambert WA *Submission 85*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Baptist Homes WA *Submission 102*; Salvation Army VIC *Submission 141*; Aged Care Australia Inc ACT *Submission 178*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Cairns consultations.

642 Ethnic Aged Care Advisory Committee NSW *Submission 101*.

643 Carers' Association in Victoria VIC *Submission 235*.

644 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.

645 Kelvin Dickens Consulting Service SA *Submission 87*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*.

646 Australian Association of Social Workers Ltd WA *Submission 165*; Aged Care Australia Inc ACT *Submission 178*.

647 Aboriginal Community Elders Services VIC *Submission 305*.

648 See eg Carers Association of Australia Inc ACT *Submission 160*; Council on the Ageing (Australia) VIC *Submission 185*.

649 Caulfield Aged Care Assessment Team VIC *Submission 223*; see also Carers Association of Australia Inc ACT *Submission 160*.

650 Home Care Services of NSW *Submission 104*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Alzheimer's Association (Australia) Inc NSW *Submission 175*.

651 Older Persons Rights Service (Inc) WA *Submission 105*; Catholic Womens League Australia ACT *Submission 161*.

652 Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; C Fehring VIC *Submission 236*; see also Dr M Dunstone SA *Submission 19*.

653 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*.

654 See eg Central Australian Advocacy Service NT *Submission 78*; NSW College of Nursing NSW *Submission 106*; Salvation Army VIC *Submission 141*; N Jamieson TAS *Submission 154*; Australian Physiotherapy Association VIC *Submission 157*; Australian Association of Social Workers Ltd WA *Submission 165*; Aged Care Australia Inc ACT *Submission 178*; Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

655 See eg Confidential SA *Submission 61*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Ethnic Communities Council of New South Wales NSW *Submission 280*; Confidential WA *Submission 298*; Cairns consultations.

656 Alzheimer's Association (Australia) Inc NSW *Submission 175*.

657 Macarthur Carers' Support Group NSW *Submission 193*.

658 Cairns consultations.

659 Adelaide consultations.

660 Central Australian Advocacy Service NT *Submission 78*; Country Women's Association of Western Australia (Inc) WA *Submission 127*.

661 Salvation Army VIC *Submission 141*; Aged Care Australia Inc ACT *Submission 178*.

662 Country Women's Association of Western Australia (Inc) WA *Submission 127*.

663 Australian Association of Social Workers Ltd WA *Submission 165*.

664 Katherine and Darwin consultations.

665 Darwin consultations.

666 See eg Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Council on the Ageing QLD *Submission 247*.

667 Department of Human Services and Health, Brisbane QLD *Submission 121*; Alzheimer's Association NSW *Submission 276*.

668 Australian Association of Social Workers Ltd WA *Submission 165*.

669 Dr B Draper NSW *Submission 20*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Ethnic Aged Care Advisory Committee NSW *Submission 101*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Minister for Health QLD *Submission 231*.

670 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.

671 Liverpool Health Service NSW *Submission 43*; Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Osborne Park Geriatric Medicine Service WA *Submission 100*.

672 Osborne Park Geriatric Medicine Service WA *Submission 100*.

673 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

674 See eg Ethnic Aged Care Advisory Committee NSW *Submission 101*; Salvation Army Burrangiri Centre ACT *Submission 294*.

675 Alzheimer's Association, Western Australia WA *Submission 260*; Department of Community and Health Services TAS *Submission 189*.

676 Prince of Wales Hospital NSW *Submission 80*.

677 Returned & Services League of Australia Ltd ACT *Submission 182*.

678 Council on the Ageing (Australia) VIC *Submission 185*; see also H Wilkins NSW *Submission 75*; Prince of Wales Hospital NSW *Submission 80*; KC Lambert WA *Submission 85*; Aged Services Association NSW *Submission 267*; Alzheimer's Association NSW *Submission 276*; Salvation Army Burrangiri Centre ACT *Submission 294*; L Russell ACT *Submission 295*.

679 Alzheimer's Association (Australia) Inc NSW *Submission 175*; see also Aged Care Australia Inc ACT *Submission 178*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; J Ambrose VIC *Submission 227*.

680 Council on the Ageing (Australia) VIC *Submission 185*; Alzheimer's Association NSW *Submission 276*.

681 Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Alzheimer's Association, Victoria VIC *Submission 228*; Alzheimer's Association, Western Australia WA *Submission 260*.

682 During 1993/94 35 percent of the available benefit respite care days in nursing homes were used, which was a 26 percent increase in the provision of respite from the previous financial year. For the same period 66 percent of the available respite places in hostels were used which was an 11 percent increase in the provision of respite services from the previous financial year. Department of Human Services and Health Annual Report 1993/94 AGPS Canberra 1994, 237-238.

683 Final Report AGPS November 1994, rec at 2.11.

684 Carers Association SA *Submission 196*; Council on the Ageing (Australia) VIC *Submission 185*; Carers' Association in Victoria VIC *Submission 235*.

685 Sir Charles Gardiner Hospital Aged Care Assessment Team WA *Submission 181*.

686 R Aljian VIC *Submission 41*; Confidential SA *Submission 49*; Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; ACOA Residents Group SA *Submission 137*; Australian Association of Social Workers Ltd WA *Submission 165*; Carers Association of NSW Inc *Submission 173*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Confidential QLD *Submission 195*; J Ambrose VIC *Submission 227*; Alzheimer's Association NSW *Submission 276*; F Coffey WA *Submission 301*.

687 Confidential SA *Submission 49*.

688 Carers Association of NSW Inc *Submission 173*.

689 N Jamieson TAS *Submission 154*; Australian Association of Social Workers Ltd WA *Submission 165*; Confidential QLD *Submission 195*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

690 Older Persons Rights Service (Inc) WA *Submission 105*; Royal District Nursing Service VIC *Submission 152*; N Jamieson TAS *Submission 154*; Carers Association of Australia Inc ACT *Submission 160*; Osborne Park Hospital WA *Submission 166*; Older Women's Network (Australia) Inc NSW *Submission 170*; Carers Association of NSW Inc *Submission 173*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Carers Association SA *Submission 196*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association, Victoria VIC *Submission 228*; Alzheimer's Association, Western Australia WA *Submission 260*; Alzheimer's Association NSW *Submission 276*.

691 Carers Association of Australia Inc ACT *Submission 160*; Australian Association of Social Workers Ltd WA *Submission 165*; ACOA
Residents Group SA *Submission 137*; Carers Association of NSW Inc *Submission 173*; F Coffey WA *Submission 301*.

692 Liverpool Health Service NSW *Submission 43*; Older Persons' Action Centre Inc VIC *Submission 117*; Australian Nursing Federation,
National VIC *Submission 142*; Carers Association of Australia Inc ACT *Submission 160*; Federation of Ethnic Communities' Councils of
Australia Inc NSW *Submission 179*; Confidential QLD *Submission 195*.

693 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Confidential QLD *Submission 195*.

694 Liverpool Health Service NSW *Submission 43*.

695 See eg Municipal Association of Victoria VIC *Submission 53*; Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Carers
Association of Australia Inc ACT *Submission 160*; Carers Association of NSW Inc *Submission 173*; Alzheimer's Association (Australia) Inc
NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Australian
Nursing Homes and Extended Care Association NSW *Submission 192*; Carers Association SA *Submission 196*; Australian Pensioners' and
Superannuants' League in Queensland QLD *Submission 251*; Alzheimer's Association NSW *Submission 276*.

696 Australian Pensioners' and Superannuants' League QLD *Submission 86*.

697 Aged Care Australia Inc ACT *Submission 178*.

698 Logan Regional Resource Centre Inc QLD *Submission 21*.

699 Second Reading Speech, *National Health Bill 1972* (Cth).

700 See eg Council of Senior Citizens Associations NSW *Submission 63*; Townsville Committee on the Ageing QLD *Submission 90*; Aged Care
Assessment Team Princess Alexandra Hospital QLD *Submission 96*; G McGroder NSW *Submission 98*; Older Persons Rights Service (Inc)
WA *Submission 105*; Older Persons' Action Centre Inc VIC *Submission 117*; J Mom QLD *Submission 123*; Country Women's Association of
Western Australia (Inc) WA *Submission 127*; Aged Cottage Homes Inc SA *Submission 138*; Royal District Nursing Service VIC *Submission*
152; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT
Submission 178; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Sir Charles Gardiner Hospital Aged
Care Assessment Team WA *Submission 181*; Returned & Services League of Australia Ltd ACT *Submission 182*; Department of
Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*;
Macarthur Carers' Support Group NSW *Submission 193*; Carers Association SA *Submission 196*; Department of Immigration and Ethnic
Affairs ACT *Submission 221*; Carers' Association in Victoria VIC *Submission 235*; Council on the Ageing NT *Submission 238*; Alzheimer's
Association NSW *Submission 276*; Ethnic Committees Council of ACT *Submission 285*; Darwin consultations.

701 Carers Association of Australia Inc ACT *Submission 160*; L Bertelli VIC *Submission 169*; Federation of Ethnic Communities' Councils of
Australia Inc NSW *Submission 179*; Ethnic Committees Council of ACT *Submission 285*; Confidential WA *Submission 298*.

702 Aged Care Australia Inc ACT *Submission 178*.

703 Carers Association of Australia Inc ACT *Submission 160*; L Bertelli VIC *Submission 169*; Ethnic Committees Council of ACT *Submission*
285; Confidential WA *Submission 298*.

704 Central Australian Advocacy Service NT *Submission 78*.

705 Confidential SA *Submission 61*.

706 Central Australian Advocacy Service NT *Submission 78*.

707 Home Care Services of NSW *Submission 104*; Top End Advocacy Service NT *Submission 180*; Darwin consultations.

708 Of the submissions that directly answered the question twelve support assessment by Assessment Teams and 22 do not.

709 See eg P Catlow QLD *Submission 62*; NSW Retired Teachers Association NSW *Submission 65*; KC Lambert WA *Submission 85*;
Townsville Committee on the Ageing QLD *Submission 90*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*;
Department of Human Services and Health, Brisbane QLD *Submission 121*; Australian Nursing Federation, National VIC *Submission 142*;
Australian Geriatrics Society NSW Division *Submission 150*; L Bertelli VIC *Submission 169*; Department of Community and Health
Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care
Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

710 Aged Care Australia Inc ACT *Submission 178*.

711 Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD
Submission 121; Australian Nursing Federation, National VIC *Submission 142*; Australian Geriatrics Society NSW Division *Submission 150*;
Australian Association of Social Workers Ltd WA *Submission 165*; Department of Community and Health Services TAS *Submission 189*.

712 See eg Central Australian Advocacy Service NT *Submission 78*; Lotus Counselling Services/The James Inner South Community Health
Service VIC *Submission 79*; Older Persons Rights Service (Inc) WA *Submission 105*; N Jamieson TAS *Submission 154*; Alzheimer's
Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*.

713 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; N Jamieson TAS
Submission 154; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Council on the Ageing
(Australia) VIC *Submission 185*.

714 Dr B Draper NSW *Submission 20*; City of Sandringham VIC *Submission 56*; Southern Adelaide Aged Care Assessment Team SA
Submission 84; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Alzheimer's Association (Australia) Inc
NSW *Submission 175*; Council on the Ageing (Australia) VIC *Submission 185*; Alzheimer's Association NSW *Submission 276*.

715 Dr B Draper NSW *Submission 20*; City of Sandringham VIC *Submission 56*; Older Women's Network (Australia) Inc NSW *Submission 170*.

716 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; N Jamieson TAS
Submission 154; Top End Advocacy Service NT *Submission 180*; Council on the Ageing (Australia) VIC *Submission 185*.

717 Central Australian Advocacy Service NT *Submission 78*; Home Care Services of NSW *Submission 104*; Top End Advocacy Service NT
Submission 180; Cairns consultations.

718 Older Women's Network (Australia) Inc NSW *Submission 170*.

719 Home Care Services of NSW *Submission 104*.

720 Metropolitan Municipal Association VIC *Submission 108*.

721 See eg Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Dr M Dunstone SA *Submission 19*; Law Society of ACT
Submission 76; Country Women's Association of Western Australia (Inc) WA *Submission 127*; ACOA Residents Group SA *Submission 137*;
RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Sisters of Mercy Administration QLD
Submission 144; Victorian Bar Council VIC *Submission 148*; Royal District Nursing Service VIC *Submission 152*; FM Barker and LR
Harding SA *Submission 156*; Australian Association of Social Workers Ltd WA *Submission 165*; L Bertelli VIC *Submission 169*; Australian
Catholic Health Care Association ACT *Submission 171*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT *Submission 178*;
Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; Department of
Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*;
Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

722 Report 37 AGPS Canberra 1994. The ARC recommended that the *National Health Act 1953* (Cth) should be amended to provide for AAT
review of all decisions relating to DNCB, except those which properly lie in the criminal jurisdiction (for example in relation to an offence of
false or misleading conduct): rec 5 (a).

723 See eg Bassendean Carers' Support Group (Inc) WA *Submission 27*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Royal District Nursing Service VIC *Submission 152*; Older Women's Network (Australia) Inc NSW *Submission 170*; Carers Association of NSW Inc *Submission 173*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Returned & Services League of Australia Ltd ACT *Submission 182*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Macarthur Carers' Support Group NSW *Submission 193*; Council on the Ageing SA *Submission 201*; Carers' Association in Victoria VIC *Submission 235*; Alzheimer's Association, Western Australia WA *Submission 260*; E Smith NSW *Submission 287*; T Howlett WA *Submission 299*.

724 P Kamsma VIC *Submission 8*.

725 Logan Regional Resource Centre Inc QLD.

726 Alzheimer's Association (Australia) Inc NSW *Submission 175*.

727 J Ambrose VIC *Submission 227*.

728 P Kamsma VIC *Submission 8*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; F Coffey WA *Submission 301*.

729 Figures provided by the Aged Care program, November 1994.

730 *Aged Care Reform Strategy Mid Term Review 1990-91* AGPS Canberra 1991, rec 6.2.3.

731 Human Rights and Equal Opportunity Commission *Human Rights and Mental Illness* AGPS Canberra 1993, 930 and The National Council for the International Year of the Family *Creating the Links: Families and Social Responsibility Final Report* AGPS Canberra 1994, rec at 2.11.

732 See para 2.48.

733 In summary, this approach

- focuses on consumer rights
- aims to improve information and communication between the Department and services, including giving clear statements of government requirements
- seeks to ensure appropriate training and education for nursing home staff
- will see targeted visits to services under a risk management model in the accountability areas of standards, validation and classification reviews: Aged and Community Care Division Circular, CNH (NG) 94015, September 1994.

734 J Braithwaite et al *Raising the Standard: Resident centred nursing home regulation in Australia* AGPS Canberra 1993.

735 Statements are always published, except where standards are likely to change rapidly and substantially and a follow up visit is planned (in which case publication follows the visit) or where urgent action is required which involves sanctions and publication would prejudice appeal to a Standards Review Panel. Services have a right to make a submission to the Minister on the draft statement before it is published.

736 *Supported Residential Facilities Act 1992* (SA) s 4 (4).

737 The Victorian parliament has passed legislation (that, pending further discussions with the Commonwealth, has not yet been proclaimed) the effect of which will be that Victoria ceases to register or monitor Commonwealth funded services: see *Health Service (Amendment) Act 1994* (Vic). The Building Code of Australia and the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) will apply.

738 eg Tas, NT and the ACT.

739 See eg National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; Dubbo consultations.

740 Salvation Army NSW *Submission 1*; Kelvin Dickens Consulting Service SA *Submission 87*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Aged Care Australia Inc ACT *Submission 178*; P Kay SA *Submission 197*; Older Persons Advocacy Service QLD *Submission 242*; Darwin, Canberra, Sydney and Cairns consultations.

741 Cairns and Canberra consultations.

742 Cairns consultations.

743 Canberra consultations.

744 See eg Cairns and Hobart consultations.

745 See eg Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW *Submission 1*.

746 Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW *Submission 1*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*.

747 Darwin and Katherine consultations.

748 Sydney consultations.

749 P Kay SA *Submission 197*; B Scott WA *Submission 257*.

750 K Rundell WA *Submission 3*; KC Lambert WA *Submission 85*; Perth and Canberra consultations.

751 C Fehring VIC *Submission 236*.

752 C Fehring VIC *Submission 236*; Older Persons Advocacy Service QLD *Submission 242*.

753 Older Persons Rights Service WA *Submission 258*.

754 Older Persons Advocacy Service QLD *Submission 242*.

755 Dubbo consultations.

756 See para 12.5.

757 This pilot is discussed in House of Representatives Standing Committee on Community Affairs *Home But Not Alone: Report on the Home and Community Care Program* AGPS Canberra 1994.

758 See eg Liverpool Health Service NSW *Submission 43*; Central Australian Advocacy Service NT *Submission 78*; KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Older Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Sir Charles Gairdner Hospital Aged Care Assessment Team WA *Submission 181*; Aged Care Organisations Association Residents' Group SA *Submission 198*; Older Women's Network Inc TAS *Submission 211*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Older Persons Advocacy Service QLD *Submission 242*; Sydney, Tweed Heads, Melbourne, Katherine, Brisbane, Cairns and Bunbury consultations.

759 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; Intracare Pty Limited NSW *Submission 83*; Kelvin Dickens Consulting Service SA *Submission 87*; Baptist Homes WA *Submission 102*; NSW College of Nursing NSW *Submission 106*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; B Scott WA *Submission 257*.

760 See eg Australian Association of Social Workers Ltd WA *Submission 165*; Aged Services Association NSW *Submission 267*; S Malouf NSW *Submission 269*; B Scott WA *Submission 257*.

761 Older Persons Advocacy Service QLD *Submission 242*.

762 See eg Older Persons Advocacy Service QLD *Submission 242*; Darwin, Canberra, Cairns, Dubbo, Brisbane and Perth consultations.

763 NSW College of Nursing NSW *Submission 106*; Sisters of Mercy Administration QLD *Submission 144*; Council of Pensioner and Retired
 764 Persons Associations (SA) Inc SA *Submission 176*; Adelaide, Brisbane, Morwell, Cairns, Bunbury and Hobart consultations.
 765 B Scott WA *Submission 257*.
 766 Council on the Ageing (Australia) VIC *Submission 185*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Cairns
 767 consultations.
 768 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*.
 769 See eg Liverpool Health Service NSW *Submission 43*; Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights
 770 Service (Inc) WA *Submission 105*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Australian Geriatrics
 771 Society NSW Division *Submission 150*; Aged Care Australia Inc ACT *Submission 178*; Sir Charles Gairdner Hospital Aged Care
 772 Assessment Team WA *Submission 181*; The Accommodation Rights Service Inc NSW *Submission 187*.
 773 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; The Accommodation
 774 Rights Service Inc NSW *Submission 187*; Older Women's Network (Australia) Inc NSW *Submission 170*.
 775 Department of Human Services and Health, Brisbane QLD *Submission 121*; The Accommodation Rights Service Inc NSW *Submission 187*.
 776 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; ACOA Residents Group
 777 SA *Submission 137*; FM Barker and L R Harding SA *Submission 156*; Council of Pensioner and Retired Persons Associations (SA) Inc. SA
 778 *Submission 176*; Cairns consultations.
 779 Kelvin Dickens Consulting Service SA *Submission 87*.
 780 See eg Older Persons Rights Service (Inc) WA *Submission 105*; Confidential SA *Submission 61*; KC Lambert WA *Submission 85*; ACOA
 781 Residents Group SA *Submission 137*; Aged Care Organisations Association Residents' Group SA *Submission 198*; S Malouf NSW
 782 *Submission 269*.
 783 Department of Human Services and Health, Brisbane QLD *Submission 121*; see also Central Australian Advocacy Service NT *Submission*
 784 *78*.
 785 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Confidential WA *Submission 298*; Tweed Heads and
 786 Cairns consultations.
 787 The Accommodation Rights Service Inc NSW *Submission 187*.
 788 Department of Human Services and Health, Brisbane QLD *Submission 121*; The Accommodation Rights Service Inc NSW *Submission 187*.
 789 Darwin consultations.
 790 As recommended by the Braithwaite report: The Accommodation Rights Service Inc NSW *Submission 187*.
 791 Of the 28 responses 13 were clearly in favour and 12 were clearly against. The remaining submissions make related comments.
 792 Dr B Draper NSW *Submission 20*; Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Aged Care Assessment Team
 793 Princess Alexandra Hospital QLD *Submission 96*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services
 794 and Health, Brisbane QLD *Submission 121*; Confidential SA *Submission 61*; Alzheimer's Association (Australia) Inc NSW *Submission 175*;
 795 Aged Care Australia Inc ACT *Submission 178*.
 796 Older Persons Rights Service (Inc) WA *Submission 105*.
 797 Southern Adelaide Aged Care Assessment Team SA *Submission 84*.
 798 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Aged Care Assessment Team Princess Alexandra Hospital QLD
 799 *Submission 96*.
 800 Aged Care Organisations Association Residents' Group SA *Submission 198*.
 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.
 Braithwaite et al *Raising the Standards: resident centred nursing home regulation in Australia* AGPS Canberra 1992, rec 26.
 See eg Salvation Army NSW *Submission 1*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Aged Care Assessment
 Team Princess Alexandra Hospital QLD *Submission 96*; G McGroder NSW *Submission 98*; Australian Nursing Federation, Victorian Branch
 VIC *Submission 119*; J Mom QLD *Submission 123*; Older Women's Network (Australia) Inc NSW *Submission 170*; Australian Catholic
 Health Care Association ACT *Submission 171*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Council
 on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Dr J Neal TAS *Submission*
 213; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Brisbane, Canberra and Hobart consultations.
 See eg C Fehring VIC *Submission 236*.
 The Accommodation Rights Service Inc NSW *Submission 187*.
 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; Home Care
 Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Footscray Society for the Aged (Inc) VIC
Submission 116; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Aged Care Australia Inc
 ACT *Submission 178*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care
 Association NSW *Submission 192*; Alzheimer's Association, Victoria VIC *Submission 228*; Aged Care Australia ACT *Submission 283*.
 791 Footscray Society for the Aged (Inc) VIC *Submission 116*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Alzheimer's
 792 Association, Victoria VIC *Submission 228*.
 793 Melbourne, Perth and Brisbane consultations.
 794 Kelvin Dickens Consulting Service SA *Submission 87*; Home Care Services of NSW *Submission 104*; St Luke's Hospital Complex NSW
 795 *Submission 149*; B Scott WA *Submission 257*; Aged Care Australia ACT *Submission 283*.
 796 Older Persons Rights Service (Inc) WA *Submission 105*; Footscray Society for the Aged (Inc) VIC *Submission 116*.
 797 Intracare Pty Limited NSW *Submission 83*; Home Care Services of NSW *Submission 104*; Salvation Army VIC *Submission 141*; Aged Care
 798 Australia Inc ACT *Submission 178*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Alzheimer's
 799 Association, Victoria VIC *Submission 228*; Aged Care Australia ACT *Submission 283*.
 800 See eg Alzheimer's Association (Australia) Inc NSW *Submission 175*; The Accommodation Rights Service Inc NSW *Submission 187*;
 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
 See eg Salvation Army NSW *Submission 1*; Central Australian Advocacy Service NT *Submission 78*; KC Lambert WA *Submission 85*;
 Kelvin Dickens Consulting Service SA *Submission 87*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Country
 Women's Association of Western Australia (Inc) WA *Submission 127*; Salvation Army VIC *Submission 141*; Australian Nursing Federation,
 National VIC *Submission 142*; St Luke's Hospital Complex NSW *Submission 149*; FM Barker and L R Harding SA *Submission 156*; Older
 Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care
 Australia Inc ACT *Submission 178*; The Accommodation Rights Service Inc NSW *Submission 187*.
 798 Central Australian Advocacy Service NT *Submission 78*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Home Care
 799 Services of NSW *Submission 104*; J Mom QLD *Submission 123*; ACOA Residents Group SA *Submission 137*; L Bertelli VIC *Submission*
 800 *169*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Council on the Ageing (Australia) VIC
Submission 185; Aged Care Training and Development Unit, Outer Eastern College of TAFE VIC *Submission 226*.
 See eg Home Care Services of NSW *Submission 104*; L Bertelli VIC *Submission 169*.
 Central Australian Advocacy Service NT *Submission 78*; Confidential WA *Submission 298*.

801 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; Baptist Homes WA *Submission 102*; Home Care Services of NSW *Submission 104*; NSW College of Nursing NSW *Submission 106*; Medea Park Association Inc TAS *Submission 113*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Salvation Army VIC *Submission 141*; Australian Nursing Federation, National VIC *Submission 142*; Sisters of Mercy Administration QLD *Submission 144*; National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; M Bull NSW *Submission 172*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; The Accommodation Rights Service Inc NSW *Submission 187*; Anglican Community Services SA *Submission 199*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*; Council on the Ageing SA *Submission 201*; Dr J Neal TAS *Submission 213*; Community Options Victoria VIC *Submission 217*; Office on Ageing NSW *Submission 222*; Maltese Community Council of NSW *Submission 225*; Alzheimer's Association, Victoria VIC *Submission 228*; Alzheimer's Association NSW *Submission 276*; Aged Care Australia ACT *Submission 283*; Canberra, Adelaide and Bunbury consultations.

802 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; Perth and Darwin consultations.

803 Dr M Dunstone SA *Submission 19*; see also E Lehmann NSW *Submission 281*.

804 Darwin consultations.

805 Adelaide consultations.

806 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*.

807 Hawthorn Village Aged Care Hostel VIC *Submission 22*.

808 Hawthorn Village Aged Care Hostel VIC *Submission 22*; Morwell, Sydney and Perth consultations.

809 Dubbo consultations.

810 Alzheimer's Association (Australia) Inc NSW *Submission 175*; see also Dr B Draper NSW *Submission 20*; Alzheimer's Association, Victoria VIC *Submission 228*.

811 Community Options Victoria VIC *Submission 217*.

812 Salvation Army VIC *Submission 141*.

813 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; Anglican Retirement Villages NSW *Submission 151*; Maltese Community Council of NSW *Submission 225*; Aged Services Association NSW *Submission 267*; Alzheimer's Association NSW *Submission 276*; E Lehmann NSW *Submission 281*.

814 Footscray Society for the Aged (Inc) VIC *Submission 116*.

815 Belconnen Community Service Inc ACT *Submission 143*; Private Geriatric Hospitals Association of Victoria VIC *Submission 230*.

816 Hawthorn Village Aged Care Hostel VIC *Submission 22*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Humanist Society of Victoria Inc VIC *Submission 66*; Kelvin Dickens Consulting Service SA *Submission 87*; Baptist Homes WA *Submission 102*; Anglican Retirement Villages NSW *Submission 151*; L Bertelli VIC *Submission 169*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Morwell, Tweed Heads and Brisbane consultations.

817 FM Barker and L R Harding SA *Submission 156*.

818 Dr B Draper NSW *Submission 20*.

819 Alzheimer's Association, Victoria VIC *Submission 228*.

820 Salvation Army NSW *Submission 1*.

821 Kelvin Dickens Consulting Service SA *Submission 87*.

822 Kelvin Dickens Consulting Service SA *Submission 87*; Council on the Ageing SA *Submission 201*.

823 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*.

824 Perth consultations.

825 NSW College of Nursing NSW *Submission 106*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Anglican Retirement Villages NSW *Submission 151*; NSW Health Department *Submission 155*; Dr J Neal TAS *Submission 213*.

826 Home Care Services of NSW *Submission 104*.

827 Dr J Neal TAS *Submission 213*.

828 Perth and Adelaide consultations.

829 See eg F Delbridge QLD *Submission 37*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Department of Human Services and Health, Brisbane QLD *Submission 121*; J Mom QLD *Submission 123*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Australian Nursing Federation, National VIC *Submission 142*; Victorian Bar Council VIC *Submission 148*; Aged Care Australia Inc ACT *Submission 178*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Australian Nursing Homes and Extended Care Association NSW *Submission 274*.

830 Churches of Christ In Queensland Social Service Department QLD *Submission 31*.

831 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Australia Inc ACT *Submission 178*.

832 Australian Nursing Homes and Extended Care Association NSW *Submission 274*.

833 Department of Human Services and Health, Brisbane QLD *Submission 121*.

834 This certificate should be tabled in Parliament within 15 sitting days of the certificate being issued. This would provide independent scrutiny of the Minister's decision to remove a service provider's rights of review: Administrative Review Council *Administrative Review and Funding Programs: A Case Study of Community Services Programs* Report No. 37 AGPS Canberra 1994, rec 14.

835 Quality control is discussed in ch 9 and complaints handling in ch 12.

836 Tweed Heads consultations.

837 Australian Pensioners' & Superannuants' Federation *Aged Care - What residents say: report of focus groups conducted with residents of nursing homes and hostels* prepared for the Australian Law Reform Commission 1994 (Focus groups report).

838 Flexibility is discussed in more detail at para 3.10; 14.12-16.

839 Confidential SA *Submission 61*; see also National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Department of Community and Health Services TAS *Submission 189*; Aged Care Training and Development Unit, Outer Eastern College of TAFE VIC *Submission 226*; Confidential WA *Submission 298*; Melbourne, Brisbane and Darwin consultations.

840 Department of Human Services and Health, Brisbane QLD *Submission 121*.

841 Law Society of ACT *Submission 76*; Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; B Butler NSW *Submission 163*; 'Domino' (a pseudonym) *Submission 164*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Australian Catholic Social Welfare Commission ACT *Submission 190*; Council on the Ageing SA *Submission 201*.

842 Kelvin Dickens Consulting Service SA *Submission 87*; Home Care Services of NSW *Submission 104*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Salvation Army VIC *Submission 141*; B Butler NSW *Submission 163*; Aged Care Australia Inc ACT *Submission 178*.

843 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; B Butler NSW *Submission 163*; Aged Care Australia Inc ACT *Submission 178*.

844 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Aged Care Australia Inc ACT *Submission 178*; Top End Advocacy Service NT *Submission 180*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

845 Central Australian Advocacy Service NT *Submission 78*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

846 See eg Network of Home and Community Based Services WA *Submission 74*; Law Society of ACT *Submission 76*; Central Australian Advocacy Service NT *Submission 78*; KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Australian Nursing Federation, National VIC *Submission 142*; Sisters of Mercy Administration QLD *Submission 144*; Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW *Submission 168*; L Bertelli VIC *Submission 169*; Older Women's Network (Australia) Inc NSW *Submission 170*; Australian Catholic Health Care Association ACT *Submission 171*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT *Submission 178*; Top End Advocacy Service NT *Submission 180*; Advisory Committee on Abuse of Older People NSW *Submission 184*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Department of Community and Health Services TAS *Submission 189*; Australian Catholic Social Welfare Commission ACT *Submission 190*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Anglican Community Services SA *Submission 199*; Ethnic Communities Council of New South Wales NSW *Submission 280*.

847 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

848 Australian Nursing Homes and Extended Care Association NSW *Submission 192*; see also Minister for Health QLD *Submission 231*.

849 Law Society of ACT *Submission 76*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Council on the Ageing (Australia) VIC *Submission 185*.

850 VP Catlow QLD *Submission 62*; Australian Physiotherapy Association, NSW Branch NSW *Submission 167*; Older Persons' Action Centre Inc VIC *Submission 117*.

851 Sisters of Mercy Administration QLD *Submission 144*.

852 L Bertelli VIC *Submission 169*.

853 NSW Retired Teachers Association NSW *Submission 65*.

854 Central Australian Advocacy Service NT *Submission 78*.

855 Salvation Army VIC *Submission 141*; Alzheimer's Association (Australia) Inc NSW *Submission 175*.

856 Law Society of ACT *Submission 76*.

857 See eg Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; VP Catlow QLD *Submission 62*; Network of Home and Community Based Services WA *Submission 74*; Law Society of ACT *Submission 76*; Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; FM Barker and L R Harding SA *Submission 156*; The Accommodation Rights Service Inc NSW *Submission 187*.

858 Network of Home and Community Based Services WA *Submission 74*; Department of Human Services and Health, Brisbane QLD *Submission 121*; FM Barker and L R Harding SA *Submission 156*.

859 Network of Home and Community Based Services WA *Submission 74*; Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Baptist Homes WA *Submission 102*; Aged Care Australia Inc ACT *Submission 178*; The Accommodation Rights Service Inc NSW *Submission 187*.

860 Law Society of ACT *Submission 76*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Confidential WA *Submission 298*.

861 See para 3.11 for the objects clause recommended by the Commission.

862 See eg Australian Catholic Health Care Association ACT *Submission 171*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*; Ethnic Committees Council of ACT *Submission 285*; Morwell and Brisbane consultations.

863 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Residential Care Rights Advocacy Service VIC *Submission 218*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

864 Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*; see also Dubbo consultations.

865 Focus groups report.

866 The Accommodation Rights Service Inc NSW *Submission 187*.

867 Older Persons Advocacy Service QLD *Submission 242*.

868 Darwin consultations.

869 Perth consultations.

870 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Baptist Homes WA *Submission 102*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; RSL National Headquarters ACT *Submission 291*; Melbourne consultations.

871 Focus groups report.

872 See eg Central Australian Advocacy Service NT *Submission 78*; Top End Advocacy Service NT *Submission 180*; The Accommodation Rights Service Inc NSW *Submission 187*.

873 The Accommodation Rights Service Inc NSW *Submission 187*; see also Country Women's Association of Western Australia (Inc) WA *Submission 127*; ACOA Residents Group SA *Submission 137*.

874 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

875 L Bertelli VIC *Submission 169*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

876 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, National VIC *Submission 142*; The Accommodation Rights Service Inc NSW *Submission 187*.

877 NSW Council of Senior Citizens Associations NSW *Submission 63*; NSW Retired Teachers Association NSW *Submission 65*; Network of Home and Community Based Services WA *Submission 74*; Aged Care Australia Inc ACT *Submission 178*.

878 Department of Human Services and Health, Brisbane QLD *Submission 121*; see also Department of Community and Health Services TAS *Submission 189*.

879 Older Women's Network (Australia) Inc NSW *Submission 170*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*.

880 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Central Australian Advocacy Service NT *Submission 78*; Intracare Pty Limited NSW *Submission 83*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Combined Pensioners and Superannuants Association of NSW (Inc) *Submission 118*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; J Mom QLD *Submission 123*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Australian Nursing Federation, National VIC *Submission 142*; St Luke's Hospital Complex NSW *Submission 149*; Australian Catholic Health Care Association ACT *Submission 171*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Australian Catholic Social Welfare Commission ACT *Submission 190*; Aged Rights Advocacy Service/Council of Pensioner and Retired Persons Associations, Voice of the Elderly SA *Submission 202*; Residential Care Rights Advocacy Service VIC *Submission 218*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association, Victoria VIC *Submission 228*; C Fehring VIC *Submission 236*; Aged Care Australia ACT *Submission 283*.

881 Law Society of ACT *Submission 76*; KC Lambert WA *Submission 85*; NSW College of Nursing NSW *Submission 106*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Sisters of Mercy Administration QLD *Submission 144*; National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; P Kay SA *Submission 197*; Aged Care Organisations Association Residents' Group SA *Submission 198*; Old Colonists Association VIC *Submission 215*.

882 Alzheimer's Association (Australia) Inc NSW *Submission 175*; Residential Care Rights Advocacy Service VIC *Submission 218*; Dubbo, Adelaide and Melbourne consultations.

883 Residential Care Rights Advocacy Service VIC *Submission 218*; Brisbane consultations.

884 Aged Rights Advocacy Service/Council of Pensioner and Retired Persons Associations, Voice of the Elderly SA *Submission 202*.

885 Sydney consultations.

886 Focus groups report.

887 Sisters of Mercy Administration QLD *Submission 144*; Council on the Ageing (Australia) VIC *Submission 185*; P Kay SA *Submission 197*; Aged Care Organisations Association Residents' Group SA *Submission 198*; Aged Rights Advocacy Service/Council of Pensioner and Retired Persons Associations, Voice of the Elderly SA *Submission 202*; Morwell, Cairns, Perth, Tweed Heads and Melbourne consultations.

888 Dubbo consultations; see also NSW College of Nursing NSW *Submission 106*; Council on the Ageing (Australia) VIC *Submission 185*.

889 Darwin and Katherine consultations.

890 Focus groups report.

891 Darwin, Hobart and Katherine consultations.

892 Department of Human Services and Health, Brisbane QLD *Submission 121*; Darwin and Brisbane consultations.

893 Department of Human Services and Health, Brisbane QLD *Submission 121*.

894 Hunter Area Health Service NSW *Submission 47*; VP Catlow QLD *Submission 62*; Sisters of Mercy Administration QLD *Submission 144*; P Kay SA *Submission 197*; Old Colonists Association VIC *Submission 215*; Brisbane and Sydney consultations; Focus groups report.

895 Hunter Area Health Service NSW *Submission 47*; see also Alzheimer's Association, Victoria VIC *Submission 228*.

896 Alzheimer's Association, Victoria VIC *Submission 228*.

897 Old Colonists Association VIC *Submission 215*; Brisbane consultations.

898 See eg Department of Human Services and Health, Brisbane QLD *Submission 121*; Council on the Ageing (Australia) VIC *Submission 185*; Darwin and Brisbane consultations.

899 Council on the Ageing (Australia) VIC *Submission 185*.

900 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*; see also Katherine and Adelaide consultations.

901 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*.

902 Council on the Ageing SA *Submission 201*.

903 See eg Confidential SA *Submission 61*; The Accommodation Rights Service Inc NSW *Submission 187*; Dr D Stewart QLD *Submission 243*; Older Persons Rights Service WA *Submission 258*; Darwin, Cairns, Hobart, Melbourne and Perth consultations.

904 The Accommodation Rights Service Inc NSW *Submission 187*.

905 Focus groups report.

906 Churches of Christ In Queensland Social Service Department QLD *Submission 31*.

907 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Australian Catholic Health Care Association ACT *Submission 171*; Aged Care Australia Inc ACT *Submission 178*; Brisbane consultations.

908 Australian Catholic Health Care Association ACT *Submission 171*; Brisbane consultations.

909 Aged Care Australia Inc ACT *Submission 178*.

910 Intracare Pty Limited NSW *Submission 83*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

911 Melbourne and Perth consultations.

912 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

913 KC Lambert WA *Submission 85*; Kelvin Dickens Consulting Service SA *Submission 87*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; ACOA Residents Group SA *Submission 137*; St Luke's Hospital Complex NSW *Submission 149*; L Bertelli VIC *Submission 169*; Top End Advocacy Service NT *Submission 180*; Australian Catholic Social Welfare Commission ACT *Submission 190*; C Fehring VIC *Submission 236*; Morwell consultations.

914 It suggests as a model the WA Code of Fair Practice for Retirement Villages 1993: Confidential WA *Submission 298*.

915 Central Australian Advocacy Service NT *Submission 78*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Alzheimer's Association, Victoria VIC *Submission 228*.

916 Combined Pensioners and Superannuants Association of NSW (Inc) *Submission 118*.

917 Older Persons' Action Centre Inc VIC *Submission 117*; Top End Advocacy Service NT *Submission 180*; Australian Catholic Social Welfare Commission ACT *Submission 190*.

918 Australian Pensioners' and Superannuants' League QLD *Submission 86*; Top End Advocacy Service NT *Submission 180*; Katherine, Darwin and Adelaide consultations.

919 Home Care Services of NSW *Submission 104*.

920 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

921 See eg Law Society of ACT *Submission 76*; Central Australian Advocacy Service NT *Submission 78*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Home Care Services of NSW *Submission 104*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Baralaba Community Aged Care

Association Inc QLD *Submission 124*; ACOA Residents Group SA *Submission 137*; Australian Nursing Federation, National VIC *Submission 142*; St Luke's Hospital Complex NSW *Submission 149*; Older Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Older Persons Rights Service WA *Submission 258*; Hobart, Perth and Brisbane consultations.

922 See eg Sisters of Mercy Administration QLD *Submission 144*; Adelaide consultations.

923 Residential Care Rights Advocacy Service VIC *Submission 218*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

924 Council on the Ageing SA *Submission 201*.

925 K Rundell WA *Submission 3*; Central Australian Advocacy Service NT *Submission 78*.

926 Central Australian Advocacy Service NT *Submission 78*.

927 Law Society of ACT *Submission 76*.

928 P Kay SA *Submission 197*; Sydney consultations.

929 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*.

930 See eg Hobart consultations.

931 The Accommodation Rights Service Inc NSW *Submission 187*.

932 See eg Intracare Pty Limited NSW *Submission 83*; Department of Human Services and Health, Brisbane QLD *Submission 121*.

933 See ch 12.

934 Guidelines for the Residential Aged Care Advocacy Services Program, para 5.2.1.

935 Brian Elton and Associates *Evaluation of Residential Aged Care Advocacy Services Program - Final Report* Department of Health Housing Local Government and Community Services 1993.

936 The Nursing Home Consultative Committee Report to the Hon Brian Howe, 29 March 1994.

937 Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; see also Law Society of ACT *Submission 76*; S Malouf NSW *Submission 269*.

938 P Kamsma VIC *Submission 8*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Residential Care Rights Advocacy Service VIC *Submission 218*; Sydney consultations.

939 Confidential SA *Submission 61*; Perth, Melbourne, Brisbane, Darwin, Hobart, Dubbo and Sydney consultations.

940 Residential Care Rights Advocacy Service VIC *Submission 218*.

941 See eg Confidential SA *Submission 61*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Hobart, Perth, Sydney and Melbourne consultations.

942 Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*.

943 Confidential SA *Submission 61*.

944 Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Aged Rights Advocacy Service/Council of Pensioner and Retired Persons Associations, Voice of the Elderly SA *Submission 202*.

945 Central Australian Advocacy Service NT *Submission 78*.

946 Confidential NSW *Submission 46*.

947 Top End Advocacy Service NT *Submission 239*.

948 Hawthorn Village Aged Care Hostel VIC *Submission 22*.

949 Older Persons Advocacy Service QLD *Submission 242*.

950 See para 12.5.

951 A number of other visitor schemes now exist in Australia to provide support to a range of different groups of people living in the community. The role these visitors have differs depending on the scheme, for example, some visitors have an explicit responsibility to act as advocates for the people they visit or to monitor consumer rights and service quality. See eg *Guardianship and Administration Act 1986* (Vic) which establishes this kind of visitors' scheme in Victoria.

952 See eg Ipswich Community Aid QLD *Submission 249*; Queensland Community and Home Care Association QLD *Submission 250*; Volunteer Centre of the ACT *Submission 292*.

953 Logan Regional Resource Centre Inc QLD *Submission 21*; also Tweed Heads consultations.

954 Osborne Park Hospital WA *Submission 166*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Ethnic Communities Council of New South Wales NSW *Submission 280*; Ethnic Committees Council of ACT *Submission 285*.

955 Hobart and Darwin consultations.

956 Aged Care Australia Inc ACT *Submission 178*; see also Volunteer Centre of SA Inc *Submission 107*; Ipswich Community Aid QLD *Submission 249*; Alzheimer's Association, Western Australia WA *Submission 260*; Darwin consultations.

957 Hobart consultations.

958 Darwin consultations.

959 Volunteer Centre of NSW *Submission 147*.

960 Older Persons' Action Centre Inc VIC *Submission 117*.

961 Aged Cottage Homes Inc SA *Submission 1 38*.

962 Council on the Ageing (Australia) VIC *Submission 185*.

963 See eg Dr M Dunstone SA *Submission 19*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Queensland Community and Home Care Association QLD *Submission 38*; Lifeline Hobart Inc TAS *Submission 44*; Morningside Peninsula Hospital VIC *Submission 50*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Sisters of Mercy Administration QLD *Submission 144*; Volunteer Centre of NSW *Submission 147*; FM Barker and LR Harding SA *Submission 156*; Carers Association of Australia Inc ACT *Submission 160*; Australian Association of Social Workers Ltd WA *Submission 165*; Older Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Advisory Committee on Abuse of Older People NSW *Submission 184*; Australian Red Cross TAS *Submission 212*; Queensland Council of Carers QLD *Submission 244*; Ethnic Communities Council of New South Wales NSW *Submission 280*; Volunteer Centre of the ACT *Submission 292*; Cairns consultations.

964 Dubbo consultations.

965 Queensland Community and Home Care Association QLD *Submission 38*; Volunteer Centre of SA Inc *Submission 107*; Carers Association of Australia Inc ACT *Submission 160*; Volunteer Centre of the ACT *Submission 292*.

966 eg in Southern Tasmania between July and December 1993, 29.8% of Assessment Team clients who were 'recently bereaved', 'isolated' or who lacked support were recommended for hostel care: Department of Community and Health Services TAS *Submission 189*.

967 Old Colonists Association VIC *Submission 215*; see also Australian Red Cross TAS *Submission 212*.

968 YMCA of Sydney NSW *Submission 115*.

969 Endeavour Foundation QLD *Submission 129*; Sisters of Mercy Administration QLD *Submission 144*; Queensland Community and Home Care Association QLD *Submission 250*.

970 Queensland Community and Home Care Association QLD *Submission 38*.

971 Mornington Peninsula Hospital VIC *Submission 50*; Alzheimer's Association, Western Australia WA *Submission 260*; Cairns consultations.

972 Older Persons Rights Service (Inc) WA *Submission 105*; YMCA of Sydney NSW *Submission 115*.

973 Confidential WA *Submission 298*.

974 Confidential SA *Submission 61*; Central Australian Advocacy Service NT *Submission 78*; D Port TAS *Submission 214*; Old Colonists Association VIC *Submission 215*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Queensland Community and Home Care Association QLD *Submission 250*; Brisbane consultations.

975 Advisory Committee on Abuse of Older People NSW *Submission 184*.

976 Carers Association of Australia Inc ACT *Submission 160*; see also Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

977 The Department should consider whether it is more efficient and appropriate to expand existing HACC volunteer visitor services for people getting Care Packages.

978 See ch 5.

979 This provides a range of special, submission based grants to services catering for special needs groups. It is used to fund short term initiatives to ensure the long term development of services, to provide staff and management training and to pilot and evaluate innovative services.

980 See eg Law Society of ACT *Submission 76*; Central Australian Advocacy Service NT *Submission 78*; P Gleeson *Submission 81*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Older Persons Rights Service (Inc) WA *Submission 105*; Older Persons' Action Centre Inc VIC *Submission 117*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Aged Rights Advocacy Service/Council of Pensioner and Retired Persons Associations, Voice of the Elderly SA *Submission 202*; Residential Care Rights Advocacy Service VIC *Submission 218*; Department of Immigration and Ethnic Affairs ACT *Submission 221*; Older Persons Advocacy Service QLD *Submission 242*; Concerned Citizens Association of Australia NSW *Submission 268*; Adelaide, Cairns, Dubbo, Darwin, Katherine, Perth, Sydney and Melbourne consultations.

981 Central Australian Advocacy Service NT *Submission 78*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*.

982 The Accommodation Rights Service Inc NSW *Submission 187*; see also YMCA of Sydney NSW *Submission 115*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Darwin and Katherine consultations.

983 Central Australian Advocacy Service NT *Submission 78*.

984 Family Research Action Centre VIC *Submission 229*.

985 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Aged Care Australia Inc ACT *Submission 178*; Aged Rights Advocacy Service/Council of Pensioner and Retired Persons Associations, Voice of the Elderly SA *Submission 202*; Sydney, Darwin and Katherine consultations.

986 The Accommodation Rights Service Inc NSW *Submission 187*; see also Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.

987 Central Australian Advocacy Service NT *Submission 78*; Older Persons Rights Service (Inc) WA *Submission 105*; Alzheimer's Association (Australia) Inc NSW *Submission 175*.

988 Kelvin Dickens Consulting Service SA *Submission 87*; NSW College of Nursing NSW *Submission 106*; YMCA of Sydney NSW *Submission 115*; Royal Australian College of General Practitioners QLD *Submission 125*; N Jamieson TAS *Submission 154*.

989 Department of Community and Health Services TAS *Submission 189*.

990 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.

991 Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*.

992 Older Persons Rights Service (Inc) WA *Submission 105*; The Accommodation Rights Service Inc NSW *Submission 187*; Older Persons Advocacy Service QLD *Submission 242*; Sydney consultations.

993 Law Society of ACT *Submission 76*; Central Australian Advocacy Service NT *Submission 78*; The Accommodation Rights Service Inc NSW *Submission 187*; Confidential WA *Submission 298*.

994 St Luke's Hospital Complex NSW *Submission 149*.

995 These examples are modelled on the goals of the aged care advocacy services program.

996 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; VP Catlow QLD *Submission 62*; Law Society of ACT *Submission 76*; Baptist Homes WA *Submission 102*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; FM Barker and LR Harding SA *Submission 156*; Australian Association of Social Workers Ltd WA *Submission 165*; A Courtis WA *Submission 177*; The Accommodation Rights Service Inc NSW *Submission 187*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Aged Care Tasmania TAS *Submission 209*.

997 Footscray Society for the Aged (Inc) VIC *Submission 116*.

998 Sisters of Mercy Administration QLD *Submission 144*; Perth and Dubbo consultations.

999 Focus groups report.

1000 F Delbridge QLD *Submission 37*; FJ Campbell WA *Submission 60*; Confidential SA *Submission 61*; Central Australian Advocacy Service NT *Submission 78*; Prince of Wales Hospital NSW *Submission 80*; KC Lambert WA *Submission 85*; Kelvin Dickens Consulting Service SA *Submission 87*; Home Care Services of NSW *Submission 104*; Australian Nursing Federation, National VIC *Submission 142*; Confidential NSW *Submission 153*; Older Women's Network (Australia) Inc NSW *Submission 170*; Confidential WA *Submission 298*.

1001 Prince of Wales Hospital NSW *Submission 80*; Australian Association of Social Workers Ltd WA *Submission 165*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Tasmania TAS *Submission 209*; Old Colonists Association VIC *Submission 215*; Hobart and Perth consultations.

1002 Focus groups report.

1003 Alzheimer's Association (Australia) Inc NSW *Submission 175*.

1004 See eg Confidential SA *Submission 61*.

1005 Central Australian Advocacy Service NT *Submission 78*; see also Confidential SA *Submission 61*; Council on the Ageing SA *Submission 201*; Older Women's Network Inc TAS *Submission 211*.

1006 Central Australian Advocacy Service NT *Submission 78*.

1007 Council on the Ageing SA *Submission 201*.

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- 1008 FJ Campbell WA *Submission 60*; Prince of Wales Hospital NSW *Submission 80*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Alzheimer's Association, Victoria VIC *Submission 228*; Darwin and Melbourne consultations.
- 1009 Older Women's Network (Australia) Inc NSW *Submission 170*.
- 1010 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Australian Nursing Federation, National VIC *Submission 142*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Confidential NSW *Submission 153*; Department of Community and Health Services TAS *Submission 189*.
- 1011 Australian Pensioners' and Superannuants' League QLD *Submission 86*; Australian Pensioners and Superannuants League in Queensland QLD *Submission 251*; Darwin consultations. Aboriginal focus group participants with experience of community managed services which had consumers on management committees were very positive about this as a model: Focus groups report.
- 1012 Home Care Services of NSW *Submission 104*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Adelaide consultations.
- 1013 Department of Human Services and Health, Brisbane QLD *Submission 121*; see also Aged Care Australia Inc ACT *Submission 178*.
- 1014 Aged Care Australia Inc ACT *Submission 178*.
- 1015 Home Care Services of NSW *Submission 104*.
- 1016 Purdon Associates Pty Ltd Pebbles in the Pond - A study of the information needs of older Australians regarding residential and community care Department of Health Housing Local Government and Community Services 1993.
- 1017 Liverpool Health Service NSW *Submission 43*; D Ewin VIC *Submission 58*; Confidential SA *Submission 61*; Migrant Women's Advisory Committee TAS *Submission 67*; M Stewart NSW *Submission 69*; Central Australian Advocacy Service NT *Submission 78*; Southern Adelaide Aged Care Assessment Team SA *Submission 84*; KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; G McGroder NSW *Submission 98*; Home Care Services of NSW *Submission 104*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; FM Barker and L R Harding SA *Submission 156*; Older Women's Network (Australia) Inc NSW *Submission 170*; Aged Care Australia Inc ACT *Submission 178*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Aged Care Organisations Association Residents' Group SA *Submission 198*; Council on the Ageing SA *Submission 201*; Aged Care Tasmania TAS *Submission 209*; Older Women's Network Inc TAS *Submission 211*; D Port TAS *Submission 214*; Old Colonists Association VIC *Submission 215*; Family Research Action Centre VIC *Submission 229*; M Mayberry VIC *Submission 232*; Ethnic Communities Council of Queensland QLD *Submission 245*; Pensioners Action Group WA *Submission 256*; Sydney, Darwin, Adelaide and Cairns consultations.
- 1018 Older Women's Network Inc TAS *Submission 211*; see also Department of Human Services and Health, Brisbane QLD *Submission 121*; Cairns and Sydney consultations.
- 1019 Aged Care Australia Inc ACT *Submission 178*; Old Colonists Association VIC *Submission 215*; J Ambrose VIC *Submission 227*.
- 1020 Australian and Pensioners' & Superannuants' Federation Aged Care - What residents say: report of focus groups conducted with residents of nursing homes and hostels prepared for the Australian Law Reform Commission November 1994 (Focus groups report).
- 1021 Home Care Services of NSW *Submission 104*; Volunteer Centre of SA Inc *Submission 107*.
- 1022 Council of Pensioner and Retired Persons Associations (SA) Inc SA *Submission 176*.
- 1023 Older Women's Network Inc TAS *Submission 211*; D Port TAS *Submission 214*; Ethnic Communities Council of Queensland QLD *Submission 245*; Sydney, Cairns, Katherine and Darwin consultations.
- 1024 Confidential SA *Submission 61*; Older Persons Rights Service (Inc) WA *Submission 105*; Sydney and Melbourne consultations.
- 1025 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Older Women's Network Inc TAS *Submission 211*; Sydney and Darwin consultations.
- 1026 Kelvin Dickens Consulting Service SA *Submission 87*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1027 Sisters of Mercy Administration QLD *Submission 144*; L Bertelli VIC *Submission 169*; Pensioners Action Group WA *Submission 256*.
- 1028 Older Women's Network (Australia) Inc NSW *Submission 170*; Sydney consultations.
- 1029 Department of Human Services and Health, Brisbane QLD *Submission 121*; Brisbane consultations.
- 1030 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Dr J Neal TAS *Submission 213*; Darwin, Adelaide, Morwell and Sydney consultations.
- 1031 Central Australian Advocacy Service NT *Submission 78*; Dr J Neal TAS *Submission 213*.
- 1032 See eg Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Macarthur Carers' Support Group NSW *Submission 193*; Carers Association SA *Submission 196*; Old Colonists Association VIC *Submission 215*; Darwin, Sydney, Cairns, Brisbane and Perth consultations.
- 1033 Sydney consultations.
- 1034 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Aged Care Organisations Association Residents' Group SA *Submission 198*.
- 1035 Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; A Courtis WA *Submission 177*.
- 1036 Liverpool Health Service NSW *Submission 43*; Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Home Care Services of NSW *Submission 104*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Salvation Army VIC *Submission 141*; Hobart, Darwin, Adelaide, Perth, Sydney and Dubbo consultations.
- 1037 Older Persons Rights Service (Inc) WA *Submission 105*; Cairns consultations.
- 1038 Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Morwell, Cairns and Brisbane consultations.
- 1039 KC Lambert WA *Submission 85*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Aged Care Australia Inc ACT *Submission 178*; Macarthur Carers' Support Group NSW *Submission 193*; Darwin and Bunbury consultations.
- 1040 Old Colonists Association VIC *Submission 215*.
- 1041 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Older Persons Rights Service (Inc) WA *Submission 105*; Sydney consultations.
- 1042 Cairns consultations.
- 1043 The WA Seniors' Information Service is an example: Council on the Ageing (Australia) VIC *Submission 185*; see also NSW College of Nursing NSW *Submission 106*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Brisbane consultations.
- 1044 Dr J Neal TAS *Submission 213*.
- 1045 NSW College of Nursing NSW *Submission 106*; Dr J Neal TAS *Submission 213*; G McGroder NSW *Submission 98*; Pensioners Action Group WA *Submission 256*.

1046 Cairns consultations.

1047 Focus groups report.

1048 PE Pearsall QLD Submission 25; KC Lambert WA Submission 85; Australian Pensioners' and Superannuants' League QLD Submission 86; Older Persons Rights Service (Inc) WA Submission 105; Volunteer Centre of SA Inc Submission 107; Baralaba Community Aged Care Association Inc QLD Submission 124; Aged Care Australia Inc ACT Submission 178; Macarthur Carers' Support Group NSW Submission 193; Older Women's Network Inc TAS Submission 211; Pensioners Action Group WA Submission 256; Bunbury and Sydney consultations.

1049 PE Pearsall QLD Submission 25; Country Women's Association of Western Australia (Inc) WA Submission 127; B Butler NSW Submission 163; Sydney consultations.

1050 KC Lambert WA Submission 85; RSL (Qld) War Veterans Homes Ltd QLD Submission 140.

1051 See eg J Ambrose VIC Submission 227.

1052 J Ambrose VIC Submission 227; Cairns consultations.

1053 Central Australian Advocacy Service NT Submission 78; Australian Pensioners' and Superannuants' League QLD Submission 86; Aged Care Assessment Team Princess Alexandra Hospital QLD Submission 96; Older Persons Rights Service (Inc) WA Submission 105; L Bertelli VIC Submission 169; Council of Pensioner and Retired Persons Associations (SA) Inc SA Submission 176; Aged Care Australia Inc ACT Submission 178; Council on the Ageing (Australia) VIC Submission 185; Cairns, Perth, Sydney, Dubbo, Brisbane and Melbourne consultations.

1054 Aged Care Assessment Team Princess Alexandra Hospital QLD Submission 96; The Accommodation Rights Service Inc NSW Submission 187; Darwin consultations.

1055 Sydney consultations.

1056 Council on the Ageing (Australia) VIC Submission 185; Aged Care Australia Inc ACT Submission 178.

1057 The Accommodation Rights Service Inc NSW Submission 187; Hobart and Sydney consultations; see also Ethnic Communities Council of Queensland QLD Submission 245; Katherine consultations and Focus groups report.

1058 Perth and Cairns consultations.

1059 Hobart consultations.

1060 Australian Greek Society for Care of the Elderly VIC Submission 136; Ethnic Communities Council of New South Wales NSW Submission 280.

1061 Older Persons Rights Service (Inc) WA Submission 105.

1062 L Bertelli VIC Submission 169; Aged Care Tasmania TAS Submission 209; D Port TAS Submission 214; Ethnic Communities Council of Queensland QLD Submission 245.

1063 Federation of Ethnic Communities' Councils of Australia Inc NSW Submission 179; Ethnic Committees Council of ACT Submission 285; Sydney consultations.

1064 Department of Immigration and Ethnic Affairs ACT Submission 221; Ethnic Committees Council of ACT Submission 285.

1065 Migrant Women's Advisory Committee TAS Submission 67; Kelvin Dickens Consulting Service SA Submission 87; Dr A Kenos Submission 145; Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW Submission 168; L Bertelli VIC Submission 169; Alzheimer's Association (Australia) Inc NSW Submission 175; Council on the Ageing (Australia) VIC Submission 185; Aged Care Australia Inc ACT Submission 178; Darwin and Perth consultations.

1066 Migrant Women's Advisory Committee TAS Submission 67; Older Women's Network (Australia) Inc NSW Submission 170; Council on the Ageing (Australia) VIC Submission 185.

1067 Dr A Kenos Submission 145; Central Sydney Health Service, Ethnic Aged Unit, Area Geriatric Service NSW Submission 168; L Bertelli VIC Submission 169; Federation of Ethnic Communities' Councils of Australia Inc NSW Submission 179; Council on the Ageing (Australia) VIC Submission 185; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC Submission 224; Ethnic Committees Council of ACT Submission 285.

1068 Liverpool Health Service NSW Submission 43.

1069 Sydney consultations.

1070 Migrant Resource Centre TAS Submission 205.

1071 Katherine consultations.

1072 Darwin consultations.

1073 Katherine consultations; Focus groups report.

1074 Focus groups report.

1075 See para 3.11.

1076 Confidential SA Submission 61; Older Persons Rights Service (Inc) WA Submission 105; Council of Pensioner and Retired Persons Associations (SA) Inc SA Submission 176; Council on the Ageing (Australia) VIC Submission 185.

1077 Churches of Christ In Queensland Social Service Department QLD Submission 31; KC Lambert WA Submission 85; Kelvin Dickens Consulting Service SA Submission 87; Council on the Ageing (Australia) VIC Submission 185; Australian Nursing Homes and Extended Care Association NSW Submission 192; Aged Care Australia Inc ACT Submission 178.

1078 Dr M Dunstone SA Submission 19; Australian Pensioners' and Superannuants' League QLD Submission 86.

1079 Dr M Dunstone SA Submission 19.

1080 CA Stringer NSW Submission 48.

1081 Kelvin Dickens Consulting Service SA Submission 87; Older Persons Rights Service (Inc) WA Submission 105; Council on the Ageing (Australia) VIC Submission 185; Council of Pensioner and Retired Persons Associations (SA) Inc SA Submission 176; Aged Care Australia Inc ACT Submission 178.

1082 Australian Pensioners' and Superannuants' League QLD Submission 86; Kelvin Dickens Consulting Service SA Submission 87; Older Persons Rights Service (Inc) WA Submission 105; Department of Human Services and Health, Brisbane QLD Submission 121; Council of Pensioner and Retired Persons Associations (SA) Inc SA Submission 176; Australian Nursing Homes and Extended Care Association NSW Submission 192; Aged Care Australia Inc ACT Submission 178.

1083 Department of Human Services and Health, Brisbane QLD Submission 121.

1084 FM Barker and L R Harding SA Submission 156; The Accommodation Rights Service Inc NSW Submission 187.

1085 Kelvin Dickens Consulting Service SA Submission 87; Aged Care Assessment Team Princess Alexandra Hospital QLD Submission 96; Aged Care Australia Inc ACT Submission 178.

1086 Older Persons Rights Service (Inc) WA Submission 105; Council on the Ageing (Australia) VIC Submission 185.

1087 Confidential SA Submission 61; Kelvin Dickens Consulting Service SA Submission 87; Older Persons Rights Service (Inc) WA Submission 105; The Accommodation Rights Service Inc NSW Submission 187; Alzheimer's Association (Australia) Inc NSW Submission 175; Council of Pensioner and Retired Persons Associations (SA) Inc SA Submission 176; Aged Care Australia Inc ACT Submission 178.

1088 NSW Retired Teachers Association NSW Submission 65; Aged Care Assessment Team Princess Alexandra Hospital QLD Submission 96; Volunteer Centre of SA Inc Submission 107; A Curtis WA Submission 177; Aged Care Training and Development Unit, Outer Eastern College of TAFE VIC Submission 226.

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- 1089 KC Lambert WA Submission 85; Australian Pensioners' and Superannuants' League QLD Submission 86; RSL (Qld) War Veterans Homes Ltd QLD Submission 140; B Butler NSW Submission 163; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC Submission 224.
- 1090 The Accommodation Rights Service Inc NSW Submission 187.
- 1091 Australian Nursing Federation, Victorian Branch VIC Submission 119; Department of Community and Health Services TAS Submission 189.
- 1092 Kelvin Dickens Consulting Service SA Submission 87; Aged Care Australia Inc ACT Submission 178.
- 1093 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC Submission 224; Confidential WA Submission 306.
- 1094 Focus groups report.
- 1095 Charters say that residents of nursing homes and hostels also have the right to have access to an advocate or other avenue of redress without fear of reprisal.
- 1096 Clause 23.2 of the agreement sets out who should be on the committee and states that the written decision of the committee is binding on parties in dispute.
- 1097 P Kamsma VIC Submission 8; Dr M Dunstone SA Submission 19; Liverpool Health Service NSW Submission 43; Confidential SA Submission 61; Central Australian Advocacy Service NT Submission 78; Australian Pensioners' and Superannuants' League QLD Submission 86; Home Care Services of NSW Submission 104; Older Persons Rights Service (Inc) WA Submission 105; Australian Nursing Federation, Victorian Branch VIC Submission 119; Department of Human Services and Health, Brisbane QLD Submission 121; FM Barker and L R Harding SA Submission 156; E Rouse NSW Submission 162; Alzheimer's Association (Australia) Inc NSW Submission 175; Aged Care Australia Inc ACT Submission 178; The Accommodation Rights Service Inc NSW Submission 187; S Malouf NSW Submission 269; 279; Confidential WA Submission 298.
- 1098 Australian Pensioners' & Superannuants' Federation *Aged Care - What residents say: report of focus groups conducted with residents of nursing homes and hostels* prepared for the Australian Law Reform Commission November 1994 (Focus groups report).
- 1099 Kamsma VIC Submission 8; Churches of Christ In Queensland Social Service Department QLD Submission 31; Older Persons Rights Service (Inc) WA Submission 54; Kelvin Dickens Consulting Service SA Submission 87; Home Care Services of NSW Submission 104; Department of Human Services and Health, Brisbane QLD Submission 121; A Courtis WA Submission 177; The Accommodation Rights Service Inc NSW Submission 187; Older Women's Network Action Group ACT Submission 289; Confidential WA Submission 306.
- 1100 P Kamsma VIC Submission 8; Dr M Dunstone SA Submission 19; Kelvin Dickens Consulting Service SA Submission 87; Australian Nursing Federation, Victorian Branch VIC Submission 119; Department of Human Services and Health, Brisbane QLD Submission 121; B Robinson QLD Submission 135; Australian Nursing Federation, National VIC Submission 142; Victorian Bar Council VIC Submission 148; The Accommodation Rights Service Inc NSW Submission 187; Older Women's Network New South Wales NSW Submission 279.
- 1101 Dr M Dunstone SA Submission 19; Confidential SA Submission 61; Australian Nursing Federation, Victorian Branch VIC Submission 119; Victorian Bar Council VIC Submission 148; FM Barker and LR Harding SA Submission 156; The Accommodation Rights Service Inc NSW Submission 187; Australian Nursing Federation, National VIC Submission 142; E Rouse NSW Submission 162.
- 1102 P Kamsma VIC Submission 8; Dr M Dunstone SA Submission 19; Churches of Christ In Queensland Social Service Department QLD Submission 31; Older Persons Rights Service (Inc) WA Submission 54; KC Lambert WA Submission 85; Kelvin Dickens Consulting Service SA Submission 87; Older Persons Rights Service (Inc) WA Submission 105; Australian Nursing Federation, Victorian Branch VIC Submission 119; J Mom QLD Submission 123; A Courtis WA Submission 177; FM Barker and LR Harding SA Submission 156; Australian Nursing Federation, National VIC Submission 142; Victorian Bar Council VIC Submission 148; Alzheimer's Association (Australia) Inc NSW Submission 175; A Courtis WA Submission 177; Older Women's Network New South Wales NSW Submission 279; Focus groups report.
- 1103 KC Lambert WA Submission 85; Australian Pensioners' and Superannuants' League QLD Submission 86; Kelvin Dickens Consulting Service SA Submission 87; Home Care Services of NSW Submission 104; A Courtis WA Submission 177; Alzheimer's Association (Australia) Inc NSW Submission 175; The Accommodation Rights Service Inc NSW Submission 187; Department of Community and Health Services TAS Submission 189; Older Women's Network Action Group ACT Submission 289.
- 1104 Confidential SA Submission 61; Older Persons Rights Service (Inc) WA Submission 105; Australian Nursing Federation, Victorian Branch VIC Submission 119; Confidential WA Submission 126; Salvation Army VIC Submission 141; Australian Nursing Federation, National VIC Submission 142; E Rouse NSW Submission 162; Alzheimer's Association (Australia) Inc NSW Submission 175; Department of Community and Health Services TAS Submission 189; The Accommodation Rights Service NSW Submission 265.
- 1105 Australian Pensioners' and Superannuants' League QLD Submission 86; Focus groups report.
- 1106 Liverpool Health Service NSW Submission 43; KC Lambert WA Submission 85.
- 1107 P Kamsma VIC Submission 8; Confidential SA Submission 61; Australian Pensioners' and Superannuants' League QLD Submission 86; Kelvin Dickens Consulting Service SA Submission 87; 'Domino' (a pseudonym) Submission 164; Older Women's Network (Australia) Inc NSW Submission 170; Council on the Ageing (Australia) VIC Submission 185; Aged Care Australia Inc ACT Submission 178; Perth and Tweed Heads consultations.
- 1108 Central Australian Advocacy Service NT Submission 78; Federation of Ethnic Communities' Councils of Australia Inc NSW Submission 179.
- 1109 Federation of Ethnic Communities' Councils of Australia Inc NSW Submission 179; Migrant Resource Centre TAS Submission 205; Top End Advocacy Service NT Submission 239; Older Women's Network New South Wales NSW Submission 279; Hobart and Sydney consultations; Focus groups report.
- 1110 P Kamsma VIC Submission 8; Central Australian Advocacy Service NT Submission 78; Australian Pensioners' and Superannuants' League QLD Submission 86; Council on the Ageing (Australia) VIC Submission 185; Older Women's Network (Australia) Inc NSW Submission 170; Alzheimer's Association (Australia) Inc NSW Submission 175; Federation of Ethnic Communities' Councils of Australia Inc NSW Submission 179; Council on the Ageing (Australia) VIC Submission 185; Older Women's Network Action Group ACT Submission 289; Tweed Heads and Katherine consultations.
- 1111 Older Women's Network Action Group ACT Submission 289.
- 1112 Older Persons Rights Service WA Submission 258; Volunteer Centre of the ACT Submission 292; Focus groups report.
- 1113 See eg Kelvin Dickens Consulting Service SA Submission 87; Aged Care Australia Inc ACT Submission 178; Focus groups report.
- 1114 P Kamsma VIC Submission 8; Central Australian Advocacy Service NT Submission 78; Focus groups report.
- 1115 Migrant Resource Centre TAS Submission 205; Older Persons Rights Service WA Submission 258; Older Women's Network New South Wales NSW Submission 279; Melbourne consultations.
- 1116 Federation of Ethnic Communities' Councils of Australia Inc NSW Submission 179.
- 1117 Central Australian Advocacy Service NT Submission 78; Alzheimer's Association (Australia) Inc NSW Submission 175; Older Persons Rights Service (Inc) WA Submission 105.
- 1118 Focus groups report.

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- 1119 Kelvin Dickens Consulting Service SA *Submission 87*; Victorian Bar Council VIC *Submission 148*; Carers Association of Australia Inc ACT *Submission 160*; Older Women's Network (Australia) Inc NSW *Submission 170*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Confidential WA *Submission 298*; Hobart consultations.
- 1120 Alzheimer's Association (Australia) Inc NSW *Submission 175*; Department of Community and Health Services TAS *Submission 189*.
- 1121 Focus groups report.
- 1122 The Accommodation Rights Service Inc NSW *Submission 187*; Victorian Bar Council VIC *Submission 148*; Aged Care Tasmania TAS *Submission 209*; Hobart consultations; Focus groups report.
- 1123 Central Australian Advocacy Service NT *Submission 78*; P Gleeson *Submission 81*; Home Care Services of NSW *Submission 104*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Focus groups report.
- 1124 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.
- 1125 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; New South Wales Nurses' Association NSW *Submission 99*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Metropolitan Municipal Association VIC *Submission 108*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Combined Pensioners and Superannuants Association of NSW (Inc) *Submission 118*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Australian Nursing Federation, National VIC *Submission 142*; Belconnen Community Service Inc ACT *Submission 143*; Australian Catholic Health Care Association ACT *Submission 171*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care Rights Advocacy Service VIC *Submission 218*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association, Victoria VIC *Submission 228*; Older Persons Rights Service WA *Submission 258*; A Adams NSW *Submission 270*; Older Women's Network New South Wales NSW *Submission 279*; Older Women's Network Action Group ACT *Submission 289*; Volunteer Centre of the ACT *Submission 292*; Confidential WA *Submission 298*; Melbourne and Morwell consultations.
- 1126 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Australia Inc ACT *Submission 178*.
- 1127 See eg The Accommodation Rights Service Inc NSW *Submission 187*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; S Malouf NSW *Submission 269*.
- 1128 See eg Liverpool Health Service NSW *Submission 43*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*.
- 1129 Australian Nursing Federation, National VIC *Submission 142*; Victorian Bar Council VIC *Submission 148*; Australian Association of Social Workers Ltd WA *Submission 165*; Focus groups report.
- 1130 Older Women's Network Action Group ACT *Submission 289*; St Luke's Hospital Complex NSW *Submission 149*; Focus groups report.
- 1131 Focus groups report.
- 1132 Confidential SA *Submission 61*; NSW Retired Teachers Association NSW *Submission 65*; Central Australian Advocacy Service NT *Submission 78*; P Gleeson *Submission 81*; A Courtis WA *Submission 177*; Brisbane, Hobart and Sydney consultations.
- 1133 P Kamsma VIC *Submission 8*; Home Care Services of NSW *Submission 104*; Department of Community and Health Services TAS *Submission 189*.
- 1134 Carers Association of Australia Inc ACT *Submission 160*.
- 1135 See eg Kelvin Dickens Consulting Service SA *Submission 87*; Townsville Committee on the Ageing QLD *Submission 90*; Home Care Services of NSW *Submission 104*; Older Persons' Action Centre Inc VIC *Submission 117*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; A Courtis WA *Submission 177*; Confidential WA *Submission 298*.
- 1136 P Kamsma VIC *Submission 8*; Morwell consultations.
- 1137 Dr M Dunstone SA *Submission 19*; Confidential SA *Submission 61*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1138 See eg Central Australian Advocacy Service NT *Submission 78*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Australian Nursing Federation, National VIC *Submission 142*; St Luke's Hospital Complex NSW *Submission 149*; FM Barker and L R Harding SA *Submission 156*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Confidential QLD *Submission 195*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Older Women's Network New South Wales NSW *Submission 279*.
- 1139 The Accommodation Rights Service Inc NSW *Submission 187*.
- 1140 Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*.
- 1141 Administrative Review Council *Administrative Review and Funding Programs: A case study of community services programs* Report no 37 AGPS Canberra 1994.
- 1142 In SA a jointly funded service has been established under the auspices of the SA Office of the Commissioner for the Ageing.
- 1143 *Community Services (Complaints, Appeals and Monitoring) Act 1993* (NSW) establishes a system for independent complaints handling, monitoring and administrative review for services provided or funded through the NSW Community Services portfolio.
- 1144 eg Vic, ACT and Qld.
- 1145 eg complaints against licensees of nursing homes are handled by the Chief Medical Officer of the Health Department in the NT.
- 1146 eg in NT, Tas and WA. Tas is considering legislation to set up an independent complaints body.
- 1147 See eg Central Australian Advocacy Service NT *Submission 78*; New South Wales Nurses' Association NSW *Submission 99*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; NSW College of Nursing NSW *Submission 106*; Privacy Committee NSW *Submission 114*; Combined Pensioners' and Superannuants' Association of NSW (Inc) *Submission 118*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Australian Nursing Federation, National VIC *Submission 142*; Victorian Bar Council VIC *Submission 148*; St Luke's Hospital Complex NSW *Submission 149*; FM Barker and LR Harding SA *Submission 156*; Older Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*; The Accommodation Rights Service Inc NSW *Submission 187*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Council on the Ageing SA *Submission 201*; Residential Care Rights Advocacy Service VIC *Submission 218*; Law Institute of Victoria VIC *Submission 220*;

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- Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association, Victoria VIC *Submission 228*; Retirement Village Association of Australia VIC *Submission 234*; Adeline Retirement Village NSW *Submission 266*; Older Women's Network Action Group ACT *Submission 289*; RSL National Headquarters ACT *Submission 291*; Melbourne and Darwin consultations.
- 1148 See eg Department of Human Services and Health, Brisbane QLD *Submission 121*; The Accommodation Rights Service Inc NSW *Submission 187*; Council on the Ageing SA *Submission 201*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Perth consultations.
- 1149 The Accommodation Rights Service Inc NSW *Submission 187*; RSL National Headquarters ACT *Submission 291*.
- 1150 Older Women's Network (Australia) Inc NSW *Submission 170*; Council on the Ageing (Australia) VIC *Submission 185*; Residential Care Rights Advocacy Service VIC *Submission 218*.
- 1151 Council on the Ageing SA *Submission 201*.
- 1152 L Bertelli VIC *Submission 169*; Focus groups report.
- 1153 Submissions in favour of the Ombudsman include K Rundell WA *Submission 3*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; B Ottley NSW *Submission 93*; J Mom QLD *Submission 123*; H Sherning WA *Submission 132*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Australian Catholic Health Care Association ACT *Submission 171*; Aged Care Australia Inc ACT *Submission 178*; Dr J Neal TAS *Submission 213*; Aged Care Australia ACT *Submission 283*; Older Women's Network Action Group ACT *Submission 289*. Submissions in favour of a new complaints body include Central Australian Advocacy Service NT *Submission 78*; Prince of Wales Hospital NSW *Submission 80*; NSW College of Nursing NSW *Submission 106*; FM Barker and LR Harding SA *Submission 156*; 'Domino' (a pseudonym) *Submission 164*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Council on the Ageing (Australia) VIC *Submission 185*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1154 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Victorian Bar Council VIC *Submission 148*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1155 Confidential NSW *Submission 77*; Central Australian Advocacy Service NT *Submission 78*; Home Care Services of NSW *Submission 104*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Victorian Bar Council VIC *Submission 148*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; The Accommodation Rights Service Inc NSW *Submission 187*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1156 Victorian Bar Council VIC *Submission 148*.
- 1157 Older Persons Rights Service (Inc) WA *Submission 105*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Victorian Bar Council VIC *Submission 148*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; The Accommodation Rights Service Inc NSW *Submission 187*; Department of Community and Health Services TAS *Submission 189*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1158 See eg Home Care Services of NSW *Submission 104*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; The Accommodation Rights Service Inc NSW *Submission 187*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1159 Alzheimer's Association (Australia) Inc NSW *Submission 175*; The Accommodation Rights Service Inc NSW *Submission 187*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1160 Dr M Dunstone SA *Submission 19*; NSW Retired Teachers Association NSW *Submission 65*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*.
- 1161 Combined Pensioners and Superannuants Association of NSW (Inc) *Submission 118*.
- 1162 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1163 New South Wales Nurses' Association NSW *Submission 99*.
- 1164 Older Persons Rights Service (Inc) WA *Submission 105*; Residential Care Rights Advocacy Service VIC *Submission 218*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1165 The Accommodation Rights Service Inc NSW *Submission 187*.
- 1166 F Delbridge QLD *Submission 37*; Confidential SA *Submission 61*; Kelvin Dickens Consulting Service SA *Submission 87*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*.
- 1167 Baralaba Community Aged Care Association Inc QLD *Submission 124*; ACOA Residents Group SA *Submission 137*; Victorian Bar Council VIC *Submission 148*; Department of Community and Health Services TAS *Submission 189*; Office on Ageing NSW *Submission 222*; Confidential WA *Submission 298*.
- 1168 Administrative Review Council *Administrative Review and Funding Programs: A case study of community services programs* Report no 37 AGPS Canberra 1994, rec 24.
- 1169 The High Court is currently examining this issue in relation to other federal legislation. If it takes a broader view of the power of tribunals this issue would have to be reconsidered.
- 1170 *Privacy Act 1988* (Cth) s 52. These declarations are binding on the agency concerned.
- 1171 *Crimes Act 1914* (Cth) s 70, 79.
- 1172 *Public Service Act 1922* (Cth) s 61, 62; Public Service Regulations regs 8A, 35.
- 1173 The *Freedom of Information Act 1982* (Cth) gives access to information held by government agencies. However, personal information about a person other than the applicant cannot be disclosed under that Act: s 41. Other information may not be released because of the need to protect the public interest and safeguard private and business affairs: s 43.
- 1174 *National Health Act 1953* (Cth) s135A.
- 1175 Confidential SA *Submission 61*; Central Australian Advocacy Service NT *Submission 78*.
- 1176 Footscray Society for the Aged (Inc) VIC *Submission 116*.
- 1177 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Australia Inc ACT *Submission 178*.
- 1178 Sydney consultations.
- 1179 Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*.
- 1180 Southern Adelaide Aged Care Assessment Team SA *Submission 84*; Adelaide consultations.
- 1181 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.
- 1182 Aged Care Australia Inc ACT *Submission 178*; see also Brisbane consultations.
- 1183 Perth consultations.
- 1184 Hawthorn Village Aged Care Hostel VIC *Submission 22*; Law Society of ACT *Submission 76*; Central Australian Advocacy Service NT *Submission 78*; Kelvin Dickens Consulting Service SA *Submission 87*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*; St Luke's Hospital Complex NSW *Submission 149*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Confidential QLD *Submission 195*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Confidential WA *Submission 298*.
- 1185 Department of Human Services and Health, Brisbane QLD *Submission 121*.

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- 1186 Law Society of ACT *Submission 76*; Central Australian Advocacy Service NT *Submission 78*; Townsville Committee on the Ageing QLD *Submission 90*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; Older Persons Rights Service (Inc) WA *Submission 105*; St Luke's Hospital Complex NSW *Submission 149*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1187 Australian Physiotherapy Association, NSW Branch NSW *Submission 167*.
- 1188 F Delbridge QLD *Submission 37*; Liverpool Health Service NSW *Submission 43*; Townsville Committee on the Ageing QLD *Submission 90*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; ACOA Residents Group SA *Submission 137*; Salvation Army VIC *Submission 141*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Maltese Community Council of NSW *Submission 225*; Confidential WA *Submission 298*; Confidential WA *Submission 306*.
- 1189 Logan Regional Resource Centre Inc QLD *Submission 21*; Salvation Army VIC *Submission 141*; Aged Care Australia Inc ACT *Submission 178*.
- 1190 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*.
- 1191 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Council on the Ageing (Australia) VIC *Submission 185*.
- 1192 Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1193 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1194 Older Persons Rights Service (Inc) WA *Submission 105*; Council on the Ageing (Australia) VIC *Submission 185*.
- 1195 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Law Society of ACT *Submission 76*; Townsville Committee on the Ageing QLD *Submission 90*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Confidential QLD *Submission 195*; Confidential WA *Submission 298*.
- 1196 Law Society of ACT *Submission 76*; ACOA Residents Group SA *Submission 137*.
- 1197 Law Society of ACT *Submission 76*; Older Persons Rights Service (Inc) WA *Submission 105*.
- 1198 Law Society of ACT *Submission 76*; Confidential WA *Submission 298*.
- 1199 Kelvin Dickens Consulting Service SA *Submission 87*; Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1200 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1201 NSW College of Nursing NSW *Submission 106*; ACOA Residents Group SA *Submission 137*. However, some submissions say there are no circumstances when it would be in the public interest for the Department to release personal information: St Luke's Hospital Complex NSW *Submission 149*; Confidential QLD *Submission 195*.
- 1202 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*.
- 1203 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1204 Footscray Society for the Aged (Inc) VIC *Submission 116*.
- 1205 Kelvin Dickens Consulting Service SA *Submission 87*; Older Persons Rights Service (Inc) WA *Submission 105*.
- 1206 St Luke's Hospital Complex NSW *Submission 149*.
- 1207 Kelvin Dickens Consulting Service SA *Submission 87*; Older Persons Rights Service (Inc) WA *Submission 105*; St Luke's Hospital Complex NSW *Submission 149*.
- 1208 NSW College of Nursing NSW *Submission 106*.
- 1209 Australian Association of Social Workers Ltd WA *Submission 165*.
- 1210 Australian Association of Social Workers Ltd WA *Submission 165*.
- 1211 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*.
- 1212 Alzheimer's Association, Victoria VIC *Submission 228*.
- 1213 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Older Persons Rights Service (Inc) WA *Submission 105*; J Mom QLD *Submission 123*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; St Luke's Hospital Complex NSW *Submission 149*; Australian Catholic Health Care Association ACT *Submission 171*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; C Attard ACT *Submission 290*.
- 1214 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Liverpool Health Service NSW *Submission 43*; Law Society of ACT *Submission 76*; Aged Care Assessment Program, NSW Evaluation Unit NSW *Submission 112*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Australian Geriatrics Society NSW Division *Submission 150*; Department of Community and Health Services TAS *Submission 189*.
- 1215 See eg K Rundell WA *Submission 3*; P Kamsma VIC *Submission 8*; Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Hawthorn Village Aged Care Hostel VIC *Submission 22*; F Delbridge QLD *Submission 37*; NSW Council of Senior Citizens Associations NSW *Submission 63*; NSW Retired Teachers Association NSW *Submission 65*; Humanist Society of Victoria Inc VIC *Submission 66*; Intracare Pty Limited NSW *Submission 83*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Older Persons Rights Service (Inc) WA *Submission 105*; YMCA of Sydney NSW *Submission 115*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Department of Human Services and Health, Brisbane QLD *Submission 121*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Australian Nursing Federation, National VIC *Submission 142*; Sisters of Mercy Administration QLD *Submission 144*; St Luke's Hospital Complex NSW *Submission 149*; FM Barker and L R Harding SA *Submission 156*; Older Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Human Rights and Equal Opportunity Commission, Privacy Commissioner NSW *Submission 183*.
- 1216 Human Rights and Equal Opportunity Commission, Privacy Commissioner NSW *Submission 183*.
- 1217 Privacy Committee NSW *Submission 114*.
- 1218 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*; New South Wales Nurses' Association NSW *Submission 99*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Metropolitan Municipal Association VIC *Submission 108*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Royal Australian College of General Practitioners QLD *Submission 125*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; Older Women's Network (Australia) Inc NSW *Submission 170*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Older Women's Network Action Group ACT *Submission 289*.
- 1219 Australian Geriatrics Society NSW Division *Submission 150*; see also Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.
- 1220 Department of Community and Health Services TAS *Submission 189*.

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- 1221 Law Society of ACT *Submission 76*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1222 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Australia Inc ACT *Submission 178*.
- 1223 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1224 A Courtis WA *Submission 177*; Australian Nursing Federation, National VIC *Submission 142*; Maltese Community Council of NSW *Submission 225*.
- 1225 Australian Nursing Federation, National VIC *Submission 142*.
- 1226 Law Society of ACT *Submission 76*; St Luke's Hospital Complex NSW *Submission 149*.
- 1227 Department of Human Services and Health, Brisbane QLD *Submission 121*; Australian Nursing Federation, National VIC *Submission 142*.
- 1228 ACOA Residents Group SA *Submission 137*.
- 1229 Central Australian Advocacy Service NT *Submission 78*; The Accommodation Rights Service Inc NSW *Submission 187*.
- 1230 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Australia Inc ACT *Submission 178*; The Accommodation Rights Service Inc NSW *Submission 187*.
- 1231 Aged Care Australia Inc ACT *Submission 178*.
- 1232 Department of Human Services and Health, Brisbane QLD *Submission 121*; Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1233 This is a principle underlying the recommendations of the Report of the Gibbs Committee in relation to the protection of official information. See *Review of Criminal Law Final Report* AGPS Canberra 1991, 315.
- 1234 See para 13.2.
- 1235 In NSW, however, the *Privacy and Data Protection Bill 1994* (NSW), if enacted, would have the effect of giving some protection to personal information held by service providers in NSW.
- 1236 Hawthorn Village Aged Care Hostel VIC *Submission 22*; F Delbridge QLD *Submission 37*; KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Older Persons Rights Service (Inc) WA *Submission 105*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Salvation Army VIC *Submission 141*; 'Domino' (a pseudonym) *Submission 164*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1237 P Kamsma VIC *Submission 8*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Liverpool Health Service NSW *Submission 43*; Kelvin Dickens Consulting Service SA *Submission 87*; Baptist Homes WA *Submission 102*; Home Care Services of NSW *Submission 104*; YMCA of Sydney NSW *Submission 115*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; FM Barker and LR Harding SA *Submission 156*; Australian Association of Social Workers Ltd WA *Submission 165*; A Courtis WA *Submission 177*.
- 1238 Older Persons Rights Service (Inc) WA *Submission 105*; Alzheimer's Association (Australia) Inc NSW *Submission 175*.
- 1239 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1240 Alzheimer's Association (Australia) Inc NSW *Submission 175*.
- 1241 Alzheimer's Association (Australia) Inc NSW *Submission 175*.
- 1242 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1243 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Privacy Committee NSW *Submission 114*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Royal Australian College of General Practitioners QLD *Submission 125*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Australian Nursing Federation, National VIC *Submission 142*; St Luke's Hospital Complex NSW *Submission 149*; FM Barker and LR Harding SA *Submission 156*; L Bertelli VIC *Submission 169*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Anglican Community Services SA *Submission 199*; Confidential WA *Submission 298*.
- 1244 Privacy Committee NSW *Submission 114*; Canberra consultations.
- 1245 Kelvin Dickens Consulting Service SA *Submission 87*; Home Care Services of NSW *Submission 104*; Sydney consultations.
- 1246 Kelvin Dickens Consulting Service SA *Submission 87*.
- 1247 Alzheimer's Association (Australia) Inc NSW *Submission 175*; A Courtis WA *Submission 177*; Aged Care Australia Inc ACT *Submission 178*; Dubbo and Hobart consultations.
- 1248 P Kamsma VIC *Submission 8*; Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Dr B Draper NSW *Submission 20*; F Delbridge QLD *Submission 37*; Law Society of ACT *Submission 76*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Older Women's Network (Australia) Inc NSW *Submission 170*; A Courtis WA *Submission 177*; Department of Community and Health Services TAS *Submission 189*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1249 Older Women's Network (Australia) Inc NSW *Submission 170*.
- 1250 Older Persons Rights Service (Inc) WA *Submission 105*.
- 1251 Baralaba Community Aged Care Association Inc QLD *Submission 124*.
- 1252 A Courtis WA *Submission 177*.
- 1253 St Luke's Hospital Complex NSW *Submission 149*.
- 1254 Dr B Draper NSW *Submission 20*.
- 1255 A Courtis WA *Submission 177*; Confidential QLD *Submission 195*.
- 1256 Law Society of ACT *Submission 76*.
- 1257 Privacy Committee NSW *Submission 114*.
- 1258 Human Rights and Equal Opportunity Commission, Privacy Commissioner NSW *Submission 183*.
- 1259 See para 13.2.
- 1260 Office of the Privacy Commissioner New Zealand *Submission 32*.
- 1261 The Commission, together with the Administrative Review Council, is currently reviewing the *Freedom of Information Act 1982* (Cth). In considering whether people should be able to gain access to, and where necessary amend, information about themselves held by private sector bodies it will consider whether private sector bodies should be required to comply with the IPPs in the Privacy Act rather than the Freedom of Information Act. This will be discussed in a discussion paper to be published in May 1995.
- 1262 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Townsville Committee on the Ageing QLD *Submission 90*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Metropolitan Municipal Association VIC *Submission 108*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Australian Nursing Federation, Victorian Branch VIC

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- Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Sisters of Mercy Administration QLD *Submission 144*; St Luke's Hospital Complex NSW *Submission 149*; Australian Association of Social Workers Ltd WA *Submission 165*; L Bertelli VIC *Submission 169*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*; Department of Community and Health Services TAS *Submission 189*; Maltese Community Council of NSW *Submission 225*; Tweed Heads, Cairns, Morwell and Canberra consultations.
- 1263 Home Care Services of NSW *Submission 104*.
- 1264 Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1265 New South Wales Nurses' Association NSW *Submission 99*.
- 1266 Dubbo information workshop.
- 1267 Home Care Services of NSW *Submission 104*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Returned & Services League of Australia Ltd ACT *Submission 182*; Department of Community and Health Services TAS *Submission 189*; Confidential WA *Submission 298*.
- 1268 Home Care Services of NSW *Submission 104*.
- 1269 Department of Community and Health Services TAS *Submission 189*.
- 1270 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1271 F Delbridge QLD *Submission 37*; Home Care Services of NSW *Submission 104*.
- 1272 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Townsville Committee on the Ageing QLD *Submission 90*; Baptist Homes WA *Submission 102*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*; Hobart, Morwell and Canberra consultations; cf Australian Association of Social Workers Ltd WA *Submission 165*; Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1273 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Metropolitan Municipal Association VIC *Submission 108*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Australian Catholic Health Care Association ACT *Submission 171*; Hobart, Sydney and Canberra consultations. But see Australian Nursing Homes and Extended Care Association NSW *Submission 192* that agrees that there should be common grounds of approval but that conditions should differ.
- 1274 See para 3.9.
- 1275 Country Women's Association of Western Australia (Inc) WA *Submission 127*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*; Brisbane consultations.
- 1276 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.
- 1277 Baralaba Community Aged Care Association Inc QLD *Submission 124*; Melbourne consultations.
- 1278 Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1279 A Courtis WA *Submission 177*; Perth consultations.
- 1280 Home Care Services of NSW *Submission 104*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.
- 1281 Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Ethnic Communities Council of New South Wales NSW *Submission 280*.
- 1282 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1283 Hobart consultations.
- 1284 Home Care Services of NSW *Submission 104*; Sisters of Mercy Administration QLD *Submission 144*; Hobart consultations.
- 1285 Sisters of Mercy Administration QLD *Submission 144*; Hobart consultations.
- 1286 Home Care Services of NSW *Submission 104*.
- 1287 Home Care Services of NSW *Submission 104*; see also Adelaide consultations.
- 1288 See eg Adelaide consultations.
- 1289 Aged Care Australia Inc ACT *Submission 178*.
- 1290 Morwell, Cairns, Perth and Melbourne consultations.
- 1291 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1292 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1293 Hobart and Melbourne consultations.
- 1294 Katherine consultations.
- 1295 Medea Park Association Inc TAS *Submission 113*.
- 1296 Australian Nursing Homes and Extended Care Association NSW *Submission 192*; see also Adelaide consultations.
- 1297 Aged Care Assessment Team Princess Alexandra Hospital QLD *Submission 96*.
- 1298 See eg Australian Association of Social Workers Ltd WA *Submission 165*; Cairns consultations.
- 1299 Kelvin Dickens Consulting Service SA *Submission 87*.
- 1300 RSL National Headquarters ACT *Submission 291*.
- 1301 Brisbane consultations.
- 1302 See eg Darwin consultations.
- 1303 See eg Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Metropolitan Municipal Association VIC *Submission 108*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Brisbane South Regional Health Authority QLD *Submission 128*; Australian Association of Social Workers Ltd WA *Submission 165*; Aged Care Australia Inc ACT *Submission 178*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Maltese Community Council of NSW *Submission 225*; Morwell, Katherine, Darwin, Cairns and Canberra consultations. But see Churches of Christ In Queensland Social Service Department QLD *Submission 31*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.
- 1304 Brisbane South Regional Health Authority QLD *Submission 128*.
- 1305 Aged Care Australia Inc ACT *Submission 178*.
- 1306 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1307 Department of Human Services and Health, Brisbane QLD *Submission 121*.

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- 1308 Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Australia Inc ACT *Submission 178*; see also Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1309 Australian Nursing Homes and Extended Care Association NSW *Submission 192*; see also Confidential WA *Submission 298*.
- 1310 See eg Perth consultations.
- 1311 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Kelvin Dickens Consulting Service SA *Submission 87*; Townsville Committee on the Ageing QLD *Submission 90*; Baptist Homes WA *Submission 102*; Metropolitan Municipal Association VIC *Submission 108*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Royal Australian College of General Practitioners QLD *Submission 125*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Australian Nursing Federation, National VIC *Submission 142*; Aged Care Australia Inc ACT *Submission 178*; Federation of Ethnic Communities' Councils of Australia Inc NSW *Submission 179*; Council on the Ageing (Australia) VIC *Submission 185*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Private Geriatric Hospitals Association of Victoria VIC *Submission 230*; Canberra, Hobart and Brisbane consultations; cf Home Care Services of NSW *Submission 104*; Australian Association of Social Workers Ltd WA *Submission 165*; Returned & Services League of Australia Ltd ACT *Submission 182*; Aged Care Australia ACT *Submission 283*.
- 1312 Australian Nursing Federation, Victorian Branch VIC *Submission 119*.
- 1313 Metropolitan Municipal Association VIC *Submission 108*.
- 1314 Australian Pensioners' and Superannuants' League QLD *Submission 86*.
- 1315 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Australian Association of Social Workers Ltd WA *Submission 165*; Hobart consultations.
- 1316 KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Home Care Services of NSW *Submission 104*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.
- 1317 KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*.
- 1318 P Kamsma VIC *Submission 8*; KC Lambert WA *Submission 85*.
- 1319 Salvation Army VIC *Submission 141*.
- 1320 Salvation Army VIC *Submission 141*.
- 1321 Association for Ethnic Organisations for Aged Care Inc SA *Submission 194*.
- 1322 See eg Home Care Services of NSW *Submission 104*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Sydney and Brisbane consultations.
- 1323 *National Health Act 1953* (Cth) s 39A, s39B, s 52C, s58B; *Aged or Disabled Persons' Care Act 1954* (Cth) s 9AB.
- 1324 See eg P Kamsma VIC *Submission 8*; Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Dr M Dunstone SA *Submission 19*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Home Care Services of NSW *Submission 104*; Metropolitan Municipal Association VIC *Submission 108*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Australian Association of Social Workers Ltd WA *Submission 165*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Canberra and Sydney consultations.
- 1325 Home Care Services of NSW *Submission 104*; Cairns consultations.
- 1326 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1327 L Bertelli VIC *Submission 169*.
- 1328 Brisbane consultations.
- 1329 See eg P Kamsma VIC *Submission 8*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; KC Lambert WA *Submission 85*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Metropolitan Municipal Association VIC *Submission 108*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; Salvation Army VIC *Submission 141*; Australian Association of Social Workers Ltd WA *Submission 165*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Canberra and Sydney consultations.
- 1330 See eg Home Care Services of NSW *Submission 104*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Migrant Resource Centre, Inner Western Region VIC *Submission 120*; Salvation Army VIC *Submission 141*; Australian Association of Social Workers Ltd WA *Submission 165*; National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*; Aged Care Australia Inc ACT *Submission 178*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Canberra and Sydney consultations.
- 1331 Home Care Services of NSW *Submission 104*.
- 1332 See eg Kelvin Dickens Consulting Service SA *Submission 87*; Baptist Homes WA *Submission 102*; Footscray Society for the Aged (Inc) VIC *Submission 116*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Salvation Army VIC *Submission 141*; Aged Care Australia Inc ACT *Submission 178*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Canberra and Sydney consultations. But see Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*.
- 1333 Home Care Services of NSW *Submission 104*.
- 1334 National Ethnic Aged Residential Care Options Working Party (NEARCO) VIC *Submission 174*.
- 1335 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; New South Wales Nurses' Association NSW *Submission 99*; Metropolitan Municipal Association VIC *Submission 108*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*.
- 1336 See eg Home Care Services of NSW *Submission 104*; Australian Association of Social Workers Ltd WA *Submission 165*.
- 1337 Australian Pensioners' and Superannuants' League QLD *Submission 86*.
- 1338 Home Care Services of NSW *Submission 104*.
- 1339 See eg Kelvin Dickens Consulting Service SA *Submission 87*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*.
- 1340 See eg Brisbane and Darwin consultations.
- 1341 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; ACOA Residents Group SA *Submission 137*; Australian Nursing Federation, National VIC *Submission 142*; Australian Association of Social Workers Ltd WA *Submission 165*. But see Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Salvation Army VIC *Submission 141*.

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- 1342 Kelvin Dickens Consulting Service SA *Submission* 87.
- 1343 Home Care Services of NSW *Submission* 104.
- 1344 The discussion paper proposes that the whole of the grant should be repayable if a service closes within the first 10 years of operation. The obligation to repay will decrease more rapidly in the last 10 years of the 30 year period. The obligation to repay should end after thirty years unless it has been extended by additional funding. This formula should be applied to the 'real' value of the grant, that is, the original amount adjusted upwards according to the consumer price index (CPI). Valuing a grant using the CPI is simple and the figures are publicly available. A service will know what its liability is at all times. The instrument approving capital funding should set out the circumstances in which the grant should be repaid and the basis on which the amount should be calculated. The Secretary should have the power to waive repayment of a grant with the Minister's approval. This discretion should be reviewable. Factors to be taken into account when exercising this discretion could include
- the length of time the service has operated
 - if the property is sold, what will happen to the proceeds
 - the organisation's ability to repay the money
 - whether there is a continuing need for the service in the area.
- 1345 Churches of Christ In Queensland Social Service Department QLD *Submission* 31; see also New South Wales Nurses' Association NSW *Submission* 99; Metropolitan Municipal Association VIC *Submission* 108; RSL (Qld) War Veterans Homes Ltd QLD *Submission* 140. But see E Lehmann NSW *Submission* 281.
- 1346 Australian Nursing Federation, Victorian Branch VIC *Submission* 119.
- 1347 Australian Pensioners' and Superannuants' League QLD *Submission* 86; Home Care Services of NSW *Submission* 104; Australian Nursing Federation, Victorian Branch VIC *Submission* 119.
- 1348 See para 14.10-11.
- 1349 Under s 40AA (7) - Nursing Home Financial Arrangements Principles.
- 1350 J Ryall and V Newman TAS *Submission* 210.
- 1351 See eg Churches of Christ In Queensland Social Service Department QLD *Submission* 31; Australian Pensioners' and Superannuants' League QLD *Submission* 86; New South Wales Nurses' Association NSW *Submission* 99; Metropolitan Municipal Association VIC *Submission* 108; RSL (Qld) War Veterans Homes Ltd QLD *Submission* 140; Australian Association of Social Workers Ltd WA *Submission* 165; Australian Catholic Health Care Association ACT *Submission* 171; Aged Care Australia Inc ACT *Submission* 178; Cairns, Canberra and Melbourne consultations.
- 1352 Private Geriatric Hospitals Association of Victoria VIC *Submission* 230.
- 1353 ACOA Residents Group SA *Submission* 137.
- 1354 See para 3.8.
- 1355 See eg Metropolitan Municipal Association VIC *Submission* 108; RSL (Qld) War Veterans Homes Ltd QLD *Submission* 140.
- 1356 Aged Care Australia Inc ACT *Submission* 178.
- 1357 Australian Pensioners' and Superannuants' League QLD *Submission* 86; see also Sisters of Mercy Administration QLD *Submission* 144.
- 1358 St Luke's Hospital Complex NSW *Submission* 149; see also Dr M Dunstone SA *Submission* 19.
- 1359 Australian Nursing Homes and Extended Care Association NSW *Submission* 274.
- 1360 See eg Salvation Army NSW *Submission* 1; Churches of Christ In Queensland Social Service Department QLD *Submission* 31; Australian Pensioners' and Superannuants' League QLD *Submission* 86; New South Wales Nurses' Association NSW *Submission* 99; Metropolitan Municipal Association VIC *Submission* 108; ACOA Residents Group SA *Submission* 137; St Luke's Hospital Complex NSW *Submission* 149; Australian Catholic Health Care Association ACT *Submission* 171; Council on the Ageing (Australia) VIC *Submission* 185; Australian Nursing Homes and Extended Care Association NSW *Submission* 192; Aged Care Australia ACT *Submission* 283.
- 1361 Metropolitan Municipal Association VIC *Submission* 108.
- 1362 Sisters of Mercy Administration QLD *Submission* 144.
- 1363 RSL (Qld) War Veterans Homes Ltd QLD *Submission* 140.
- 1364 Returned & Services League of Australia Ltd ACT *Submission* 182.
- 1365 Sisters of Mercy Administration QLD *Submission* 144.
- 1366 Kelvin Dickens Consulting Service SA *Submission* 87; Department of Human Services and Health, Brisbane QLD *Submission* 121; Country Women's Association of Western Australia (Inc) WA *Submission* 127; ACOA Residents Group SA *Submission* 137; Salvation Army VIC *Submission* 141; National Association of Nursing Homes and Private Hospitals Inc NSW *Submission* 146; St Luke's Hospital Complex NSW *Submission* 149; Australian Catholic Health Care Association ACT *Submission* 171; Department of Community and Health Services TAS *Submission* 189; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission* 224.
- 1367 See eg ACOA Residents Group SA *Submission* 137.
- 1368 Australian Nursing Homes and Extended Care Association NSW *Submission* 274.
- 1369 Administrative Review Council *Administrative Review and Funding Programs: A Case Study of Community Services Programs* Report No 37 AGPS Canberra 1994.
- 1370 rec 10 (c).
- 1371 This Report also deals with sanctions which the Commonwealth can impose for a breach of funding obligations (ch 16) and how to best protect the Commonwealth's capital investment in residential aged care services (ch 14).
- 1372 Standards monitoring is discussed in ch 9.
- 1373 See eg Australian Pensioners' and Superannuants' League QLD *Submission* 86; New South Wales Nurses' Association NSW *Submission* 99; Home Care Services of NSW *Submission* 104; Metropolitan Municipal Association VIC *Submission* 108; Baralaba Community Aged Care Association Inc QLD *Submission* 124; St Luke's Hospital Complex NSW *Submission* 149; L Bertelli VIC *Submission* 169; Aged Care Australia Inc ACT *Submission* 178; Department of Community and Health Services TAS *Submission* 189; Older Women's Network Action Group ACT *Submission* 289; Darwin consultations.
- 1374 Lotus Counselling Services/The James Foundation (Inc) WA *Submission* 18; Australian Pensioners' and Superannuants' League QLD *Submission* 86; Home Care Services of NSW *Submission* 104; Department of Human Services and Health, Brisbane QLD *Submission* 121; Baralaba Community Aged Care Association Inc QLD *Submission* 124; RSL (Qld) War Veterans Homes Ltd QLD *Submission* 140; L Bertelli VIC *Submission* 169; Aged Care Australia Inc ACT *Submission* 178.
- 1375 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission* 146; Department of Community and Health Services TAS *Submission* 189.
- 1376 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission* 146.
- 1377 L Bertelli VIC *Submission* 169.
- 1378 Home Care Services of NSW *Submission* 104.
- 1379 New South Wales Nurses' Association NSW *Submission* 99; Home Care Services of NSW *Submission* 104; RSL National Headquarters ACT *Submission* 291; Bunbury consultations.
- 1380 J Ryall and V Newman TAS *Submission* 210.

1381 Darwin consultations.

1382 See eg F Delbridge QLD *Submission 37*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Department of Community and Health Services TAS *Submission 189*; Confidential WA *Submission 298*; Sydney, Adelaide and Darwin consultations.

1383 See eg Department of Human Services and Health, Brisbane QLD *Submission 121*.

1384 Council on the Ageing (Australia) VIC *Submission 185*; Sydney consultations.

1385 Sydney consultations.

1386 Home Care Services of NSW *Submission 104*.

1387 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

1388 The powers the Commission considers in this chapter are powers for the purpose of monitoring compliance with legislative requirements or other conditions of funding. They are not powers to investigate a suspected offence.

1389 s 42 does not, however, give the person express power to use reasonable force to enter premises where the occupier refuses entry.

1390 Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Metropolitan Municipal Association VIC *Submission 108*; J Mom QLD *Submission 123*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Department of Community and Health Services TAS *Submission 189*; Confidential WA *Submission 298*; Cairns consultations.

1391 Kelvin Dickens Consulting Service SA *Submission 87*.

1392 Cairns consultations.

1393 Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Organisations Association of South Australia and the Northern Territory *Submission 200*.

1394 Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*.

1395 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

1396 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Baptist Homes WA *Submission 102*; Home Care Services of NSW *Submission 104*; Metropolitan Municipal Association VIC *Submission 108*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; C Fehring VIC *Submission 122*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*; Maltese Community Council of NSW *Submission 225*; Confidential WA *Submission 298*.

1397 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.

1398 Morwell consultations.

1399 C Fehring VIC *Submission 122*.

1400 Salvation Army VIC *Submission 141*.

1401 Returned & Services League of Australia Ltd ACT *Submission 182*.

1402 Churches of Christ In Queensland Social Service Department QLD *Submission 31*.

1403 F Delbridge QLD *Submission 37*; Aged Care Australia Inc ACT *Submission 178*.

1404 Kelvin Dickens Consulting Service SA *Submission 87*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Aged Care Australia Inc ACT *Submission 178*; Confidential WA *Submission 298*.

1405 Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Council on the Ageing (Australia) VIC *Submission 185*; Confidential WA *Submission 298*; Melbourne consultations.

1406 Australian Nursing Federation, Victorian Branch VIC *Submission 119*; J Mom QLD *Submission 123*; Aged Care Australia Inc ACT *Submission 178*.

1407 Country Women's Association of Western Australia (Inc) WA *Submission 127*; Confidential WA *Submission 298*.

1408 Department of Human Services and Health, Brisbane QLD *Submission 121*; Department of Community and Health Services TAS *Submission 189*.

1409 Home Care Services of NSW *Submission 104*.

1410 Returned & Services League of Australia Ltd ACT *Submission 182*.

1411 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; ACOA Residents Group SA *Submission 137*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; L Bertelli VIC *Submission 169*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*; Department of Community and Health Services TAS *Submission 189*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association, Victoria VIC *Submission 228*.

1412 Department of Community and Health Services TAS *Submission 189*.

1413 Aged Care Australia Inc ACT *Submission 178*.

1414 Churches of Christ In Queensland Social Service Department QLD *Submission 31*.

1415 Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*.

1416 RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; see also Churches of Christ In Queensland Social Service Department QLD *Submission 31*.

1417 Aged Care Australia Inc ACT *Submission 178*.

1418 Confidential WA *Submission 298*.

1419 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*.

1420 Returned & Services League of Australia Ltd ACT *Submission 182*.

1421 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Home Care Services of NSW *Submission 104*; Metropolitan Municipal Association VIC *Submission 108*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Department of Human Services and Health, Brisbane QLD *Submission 121*; J Mom QLD *Submission 123*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; cf

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- Returned & Services League of Australia Ltd ACT *Submission 182*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1422 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Aged Care Australia Inc ACT *Submission 178*.
- 1423 Some submissions do not: Australian Nursing Homes and Extended Care Association NSW *Submission 192* which says the decision should rest with the Minister, not the Secretary; Returned & Services League of Australia Ltd ACT *Submission 182*; Country Women's Association of Western Australia (Inc) WA *Submission 127*.
- 1424 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; Baptist Homes WA *Submission 102*.
- 1425 Returned & Services League of Australia Ltd ACT *Submission 182*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1426 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1427 Aged Care Australia Inc ACT *Submission 178*.
- 1428 See eg Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Home Care Services of NSW *Submission 104*; Older Persons Rights Service (Inc) WA *Submission 105*; Metropolitan Municipal Association VIC *Submission 108*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*.
- 1429 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*.
- 1430 Older Persons Rights Service (Inc) WA *Submission 105*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; J Mom QLD *Submission 123*; Baralaba Community Aged Care Association Inc QLD *Submission 124*.
- 1431 Older Persons Rights Service (Inc) WA *Submission 105*.
- 1432 Australian Nursing Federation, Victorian Branch VIC *Submission 119*.
- 1433 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1434 National Association of Nursing Homes and Private Hospitals Inc NSW *Submission 146*.
- 1435 This sanction already exists in relation to nursing homes and should also apply to hostels.
- 1436 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; New South Wales Nurses' Association NSW *Submission 99*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1437 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Salvation Army VIC *Submission 141*.
- 1438 Footscray Society for the Aged (Inc) VIC *Submission 116*.
- 1439 Salvation Army VIC *Submission 141*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1440 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1441 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*.
- 1442 Home Care Services of NSW *Submission 104*; Footscray Society for the Aged (Inc) VIC *Submission 116*; Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1443 Baralaba Community Aged Care Association Inc QLD *Submission 124*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Department of Community and Health Services TAS *Submission 189*.
- 1444 Kelvin Dickens Consulting Service SA *Submission 87*; Sisters of Mercy Administration QLD *Submission 144*.
- 1445 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1446 Aged Care Australia Inc ACT *Submission 178*.
- 1447 Confidential WA *Submission 298*.
- 1448 Churches of Christ In Queensland Social Service Department QLD *Submission 31*; New South Wales Nurses' Association NSW *Submission 99*.
- 1449 Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1450 See eg Churches of Christ In Queensland Social Service Department QLD *Submission 31*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Home Care Services of NSW *Submission 104*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; Australian Catholic Health Care Association ACT *Submission 171*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; Migrant Resource Centre of Newcastle and the Hunter Region Ltd NSW *Submission 186*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; Alzheimer's Association, Victoria VIC *Submission 228*.
- 1451 Australian Pensioners' and Superannuants' League QLD *Submission 86*.
- 1452 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Kelvin Dickens Consulting Service SA *Submission 87*; Australian Catholic Health Care Association ACT *Submission 171*; Confidential WA *Submission 298*.
- 1453 Home Care Services of NSW *Submission 104*.
- 1454 Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1455 J Mom QLD *Submission 123*.
- 1456 Country Women's Association of Western Australia (Inc) WA *Submission 127*.
- 1457 Aged Care Australia Inc ACT *Submission 178*.
- 1458 Department of Community and Health Services TAS *Submission 189*.
- 1459 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1460 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; F Delbridge QLD *Submission 37*; Baptist Homes WA *Submission 102*; Metropolitan Municipal Association VIC *Submission 108*; St Luke's Hospital Complex NSW *Submission 149*; Australian Catholic Health Care Association ACT *Submission 171*; Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1461 Churches of Christ In Queensland Social Service Department QLD *Submission 31*.

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- 1462 Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; J Mom QLD *Submission 123*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*.
- 1463 Australian Nursing Federation, Victorian Branch VIC *Submission 119*.
- 1464 See eg Salvation Army NSW *Submission 1*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; New South Wales Nurses' Association NSW *Submission 99*; Baptist Homes WA *Submission 102*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*; J Mom QLD *Submission 123*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; L Bertelli VIC *Submission 169*; Alzheimer's Association (Australia) Inc NSW *Submission 175*; Aged Care Australia Inc ACT *Submission 178*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*; Residential Care Rights/The Consumer Law Centre (Vic) Ltd VIC *Submission 224*; cf Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1465 eg Australian Nursing Federation, Victorian Branch VIC *Submission 119*; Department of Human Services and Health, Brisbane QLD *Submission 121*.
- 1466 Department of Community and Health Services TAS *Submission 189*.
- 1467 Footscray Society for the Aged (Inc) VIC *Submission 116*; Baralaba Community Aged Care Association Inc QLD *Submission 124*.
- 1468 Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1469 Returned & Services League of Australia Ltd ACT *Submission 182*.
- 1470 Salvation Army NSW *Submission 1*.
- 1471 Aged Care Australia Inc ACT *Submission 178*.
- 1472 Hobart consultations.
- 1473 Older Persons Rights Service (Inc) WA *Submission 105*; J Mom QLD *Submission 123*; Alzheimer's Association (Australia) Inc NSW *Submission 175*.
- 1474 Lotus Counselling Services/The James Foundation (Inc) WA *Submission 18*; Churches of Christ In Queensland Social Service Department QLD *Submission 31*; F Delbridge QLD *Submission 37*; Australian Pensioners' and Superannuants' League QLD *Submission 86*; Kelvin Dickens Consulting Service SA *Submission 87*; Baptist Homes WA *Submission 102*; Australian Nursing Federation, Victorian Branch VIC *Submission 119*; J Mom QLD *Submission 123*; Baralaba Community Aged Care Association Inc QLD *Submission 124*; Country Women's Association of Western Australia (Inc) WA *Submission 127*; RSL (Qld) War Veterans Homes Ltd QLD *Submission 140*; Sisters of Mercy Administration QLD *Submission 144*; Aged Care Australia Inc ACT *Submission 178*; Returned & Services League of Australia Ltd ACT *Submission 182*; Council on the Ageing (Australia) VIC *Submission 185*; Department of Community and Health Services TAS *Submission 189*; Australian Nursing Homes and Extended Care Association NSW *Submission 192*.
- 1475 Administrative Review Council *Administrative Review and Funding Programs: A Case Study of Community Services Programs* Report no 37 AGPS Canberra 1994, rec 14 (c).
- 1476 The role of these administrators will be different from the role of financial administrators appointed under the Corporations Law.