

22 April 2013

Inquiry: Aged Care (Living Longer Living Better) Bill 2013

Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Committee members

Carers Victoria is the state-wide peak organisation representing more than 700,000 family carers across Victoria. Carers Victoria is a member of the National Network of Carers Associations and of the National Aged Care Alliance.

This submission is a brief response to the legislative changes recently introduced into parliament and the deliberations of the Committee. The content is based on previous submissions made by Carers Victoria in regard to modifications to the Aged Care Act and Principles and is focused on three main areas:

1. Compatibility with the Carer Recognition Act (2010)
2. Principles for residential aged care
3. Principles for home care packages

Care provided by family and friends is the backbone of Australia's community aged care system. Carers also make significant contributions to the lives of residents in aged care facilities. The proposed amendments to the Aged Care Act (1997) provide an opportunity to align it with both the substantial shift in delivery of aged care services towards more person-centred models of care and increased recognition of the role of carers in supporting older people at home and in residential care.

Carers Victoria submits that the Living Longer Living Better Bill must be consistent with principles contained in the Carer Recognition Act (2010). The Act includes a ten point Statement for Australia's Carers and is complemented by a National Carer Strategy with six priority areas for action. The Act's core principles are:

1. All carers should have the same rights, choices and opportunities as other Australians, regardless of age, race, sex, disability, sexuality, religious or political beliefs, Aboriginal or Torres Strait Islander heritage, cultural or linguistic differences, socioeconomic status or locality.
2. Children and young people who are carers should have the same rights as all children and young people and should be supported to reach their full potential.
3. The valuable social and economic contribution that carers make to society should be recognised and supported.
4. Carers should be supported to enjoy optimum health and social wellbeing and to participate in family, social and community life.
5. *Carers should be acknowledged as individuals with their own needs within and beyond the caring role.*
6. *The relationship between carers and the persons for whom they care should be recognised and respected.*

7. *Carers should be considered as partners with other care providers in the provision of care, acknowledging the unique knowledge and experience of carers.*
8. *Carers should be treated with dignity and respect.*
9. Carers should be supported to achieve greater economic wellbeing and sustainability and, where appropriate, should have opportunities to participate in employment and education.
10. Support for carers should be timely, responsive, appropriate and accessible.

Principles 5 through 8 are particularly relevant to the ways in which the Aged Care Act should specify obligations for approved providers. These principles relate directly to the treatment of individual carers of people receiving aged care services and recognition of their care relationships by approved providers.

Carers Victoria further submits that delegated legislation such as the Aged Care Principles and Determinations must also be amended to ensure their compatibility with the Carer Recognition Act. Amendments are proposed to the User Rights Principles 1997 as follows:

In addition to the Charter of Residents Rights and Responsibilities and the Charter of Rights and Responsibilities for Community Care, there is a need to establish user rights principles for carers of people receiving residential and community aged care services under the Aged Care Act.

These would take the form of a Charter of Rights and Responsibilities for Relatives and Friends (Residential Aged Care) and a Charter of Rights and Responsibilities for Carers (Home Care Packages).

Carers Victoria research has found that following entry to residential aged care, family and friends can find it difficult to maintain a meaningful role and ongoing relationship with the resident and to establish constructive relationships with staff. Although the role of a 'representative' of a resident is recognised in the Act, family and friends are notably absent from the Residents Charter even in respect to their roles as representatives of residents.

Carers Victoria submits that there is a need to support approved providers of residential aged care with a framework for working with family and friends. A Charter of Rights and Responsibilities would provide guidance to all parties. Items would include:

Relatives and friends of residents have the right:

- to be treated and accepted as an individual, and to have individual preferences taken into account and respected
- to recognition of and respect for their past and current relationship with the resident
- to advocate for the rights and needs of the resident
- to privacy for the continuation of intimate and family relationships with the resident
- to participate in the ongoing care of the resident
- to be consulted on decisions about the living arrangements of the resident
- to involvement in the development of the resident's care plan
- to complain and to take action to resolve disputes about their own treatment by the staff or proprietor of the residential care service without fear of reprisal

Relatives and friends of residents have the responsibility:

- to respect the rights and needs of other people within the residential care service, and to respect the needs of the residential care service community as a whole
- to respect the rights of staff and the proprietor to work in an environment free from harassment

The above rights and responsibilities would apply except where the resident explicitly refuses to give their consent or where there are legal barriers to such involvement.

In community care, there is currently some recognition of the role of carers in the Charter of Rights and Responsibilities for Community Care. This is limited however to “to have his or her representative participate in decisions relating to his or her care if he or she does not have capacity”.

Carers Victoria submits that there is a need to support approved providers of home care packages with a framework for recognising the diversity of care relationships and for working with all carers of recipients of home care packages. A Charter of Rights and Responsibilities would provide guidance to all parties. Items would include:

Carers of recipients of home care packages have the right:

- to be treated and accepted as an individual, and to have individual preferences respected
- to recognition of and respect for their care relationship
- to advocate for the rights and needs of the recipient
- to be engaged as partners in care
- to involvement in the development of the recipient's care plan
- to choose services such as respite care that support the continuation of the care relationship
- to complain about their own treatment by the approved provider, without fear of losing services or being disadvantaged in any other way

Carers of recipients of home care packages have the responsibility:

- to give enough information to assist the approved provider to develop, deliver and review a care plan
- to respect the rights of care workers to their human, legal and industrial rights including the right to work in a safe environment
- to treat care workers without exploitation, abuse, discrimination or harassment

The above rights and responsibilities would apply except where the recipient explicitly refuses to give their consent or where there are legal barriers to such involvement.

These changes would ensure that the amendments to the Aged Care Act will not only be consistent with the principles of the Carer Recognition Act, but provide additional substance to the implementation of the priorities and actions contained in the National Carer Strategy.

Carers Victoria would welcome the opportunity to engage in further discussion with the Committee on these brief points.

Yours sincerely

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