



## **BAPTISTCARE INC.**

### **SUPPLEMENTARY STATEMENT TO THE SENATE STANDING COMMITTEE ON COMMUNITY AFFAIRS HEARING IN PERTH WA ON 29<sup>th</sup> APRIL 2013**

Aged Care (Living Longer Living Better) Bill 2013  
Aged Care Quality Agency Bill 2013  
Aged Care Quality Agency (Transitional Provisions) Bill 2013  
Aged Care (Bond Security) Amendment Bill 2013  
Aged Care (Bond Security) Levy Amendment Bill 2013

**Baptistcare** was pleased to have the opportunity to meet with the Senate Standing Committee on Community Affairs and discuss the implications arising from the five draft Aged Care Bills currently under consideration by Parliament. This Paper is submitted and contains the Opening Statement made at the Hearing on the 29<sup>th</sup> April 2013 and the Questions on Notice are included as an Attachment following the Statement.

#### **Description of Baptistcare Inc.**

Baptistcare is a faith-based charity which has provided aged care services for nearly 41 years to older Western Australians. It currently employs over 1600 people with a turnover this year of nearly \$100m. It has 13 residential aged care facilities, 8 retirement villages and provides a range of community aged care services including its current mix of 420 community aged care packages, EACH and EACHD services. More than 60% of our services are delivered in rural and regional WA. Baptistcare also provides services to individuals and their families who live with disabilities and mental health illnesses. Our vision in WA is to 'transform and enrich lives'.

Baptistcare is a member of Baptist Care Australia (BCA), a national group currently reshaping itself as a national peak body. Dr Lucy Morris is also the Chairperson of BCA. BCA has community service organisation members in all the States and Territories and collectively, we provide services through more than 8,000 employees and over two thousand volunteers to thousands of service users, their families and communities.

Baptistcare and BCA has consistently been on the record expressing deep concern about the direction and content of the Government's reform agenda as described in the LLLB package. We are still trying to work through the five bills currently before Parliament, however, from our analysis, they contain a number of concerns I would like to highlight.

**Baptistcare would also like to record its support for the positions taken on the key issues by ACSA and ACSWA on these draft Bills in their Submissions.**

#### **Specific Comments:**

**The consultation process** on the reform package and as a consequence, the draft legislation did not appear to listen to feedback from providers who were speaking outside the National Aged Care Alliance. Comments from WA Not-For-Profit providers and our peak body, with a different opinion to the Minister and the Department, were comprehensively dismissed. Our capacity to open up the sector for broader comment has been limited.

Advice that this package is unviable for not-for-profit aged care providers in the longer term has been ignored.

**The legislative process**, description and access to information have been complicated and unhelpful. Not all the information is available, particularly the Principles and Determinations available to the Minister. At this point there is no date for these to be released and we are being asked to comment on matters that are not yet clear. This process has been consistently rushed or closed down. The process has been inaccessible for many smaller providers particularly in rural and regional areas. It has been impossible to keep up with the constant requests for feedback, additional information and analysis of the consequences, both intended and unintended. Given the complexity and speed, many providers have not been able to do their own modelling and analysis and have to rely on others to do so which is risky for them. Mistakes have been made because of the difficulties of some of the proposals and lack of support, most recently with the Department's misinformation on the proposed Workforce Supplement which caused huge consternation in the sector.

**Access to membership of advisory groups and committees** to look at implications and provide comment by organisations and groups particularly in WA has been limited. One could argue practicalities about distance and again rely on colleagues in the east, but in the interests of working together to achieve a viable and sustainable aged care sector, far greater effort should have been made. Organisations with limited resources have had to rely significantly on their peak bodies; and, different opinions, which provide richness and fairness in the final outcome, have been marginalised.

**The specific issues of rural, regional and remote providers**, particularly acute in WA have been ignored. These include the impact of the ACFI changes on viability, the implications in the proposed Workforce Supplement, lack of access to staff, professional services, training and increasing costs of service delivery, the 28 day choice of payment period, the lack of access to capital, lower incomes generally in the country and higher evidence of non-payments; the default position on the Daily Accommodation Payment (DAP) selected by Government which will put their viability at risk and does not acknowledge the bond differential in country areas to name just a few of the issues

**Lack of agreement over many issues between the WA Government and the Federal Government** – has meant resolution over some key issues has not been achieved, e.g., HACC services – and concerns about equity and access have been acute for WA providers on behalf of concerned consumers and families. WA's recent history on not taking up bed licences, over-subscribing on minimal home care packages and minimal packages available in WA (80 in the last ACAR) add to the imbalance in care provision here.

**The reform agenda has not seen providers, particularly those in the NFP sector, as a critical stakeholder group.** In addition, little information has been provided to the wider community and consumers to keep them apprised of proposed changes. Debate has been largely restricted to providers, peak bodies, unions and government who have dedicated resources to respond, but even they have been pushed to make the system work. Disrespectful comments about aged care providers in general have not helped the debate.

Baptistcare and more broadly, BCA's concerns about its capacity to provide affordable services to the marginalised in line with our mission; and generate a surplus to future-proof services and invest in capital infrastructure, is significant given the current proposed reforms being implemented.

This suite of draft legislation does not answer our concerns. It shows evidence of poor policy development seen in the number of significant issues we have been tracking, such as the:

- Existing funding within the Sector which has been redirected or re-allocated with no consultation amounts to about \$1.6bn of which \$1.2bn has gone to the Workforce Supplement, and exacerbated with minimal real new funds available for the reform agenda. The new money – about \$500m - is still to come in future years 2015-2017.
- Re-allocation of direct care funding which has been taken out of service provision via the ACFI adjustment at the start of the 2012-2013 financial year which is still having a significant impact on care and viability and will continue to do so into the future. This includes the lack of indexation which is being repeated for Community Aged Care funding at the start of this new financial year.
- Workforce Supplement which imposes an old fashioned approach to industrial relations elevating union membership and union imposed enterprise agreements, which for organisations like Baptistcare which provide a wide range of services including aged care, simply complicates the industrial framework. It shows a subliminal dislike of employers, no real understanding of the issues NFP employers face and collectively, a fundamental distrust and lack of partnership in proposed solutions.
- Proposed IR changes contained within the Workforce Supplement do not meet current expectations of employees, clients or providers. The enormous commitment by all parties to improve wages and conditions for aged care employees was intended to be a consensus approach; instead both the process and solutions have been rejected by the provider peaks. It is a poor piece of policy development. It appears intent on bringing disharmony to the sector, deliberately setting groups against each other. It removes the capacity by local people to find local solutions to take into account local conditions and this is very evident in rural and regional locations.
- Proposed commitment to increasing wages by the Government, providers and unions has generated a package that is inadequate and significantly under-funded. For every \$1 funded, providers will need to find another \$3 for all the additional costs incurred. On costs have not been included along with many other costs. The compounding effects of the workforce supplement are significant and don't appear to have been taken into account.
- 'Naming and identification' of dementia for the second supplement shows a lack of understanding of more broadly based complex behavioural needs; and there is a poor definition of who will be determining the Veterans mental health supplement.
- Direct costs of service delivery are not covered by the changes to the dementia supplement or the changes to the accommodation charges.
- There are concerns about the Specific Care and Services Schedule for Residential Aged Care that has implications for the role and responsibilities of clinicians once the barriers between high and low care are removed. And the costs of some of the amenities have not be discussed and as such, has implications for providers.
- The capacity of the Secretary to be able to suspend an Approved Provider from making an ACFI appraisal and reappraisal by the changed wording in the legislation (the removal of the word 'substantial' in consideration of the number of appraisals that must be involved before invoking the Secretary's powers is punitive and leaves the door open for significant misuse).
- Increasing compliance obligations and red tape – the appointment of the Commissioner, the implications of the Aged Care Quality Agency, the additional changes on the Refundable Accommodation Deposit (RAD) and Daily Accommodation Payment (DAP) with consumers and families – combined with the increasing obligations imposed by ACNC and prudential arrangements and the reporting to the various new bodies created by this legislation is significant. Baptistcare has to employ more accountants, business analysts, compliance and quality auditors. The impact on the bottom line is enormous.
- Possible conflict of interest flagged with the appointment of the Aged Care Commission and the Aged Care Finance Authority which is an administrative construct not supported by statute and should be included in the Act.

- The Prudential Advisory Group and its relationship with the Secretary. The proposed new sanctions over compliance issues have not been discussed by the Draft Compliance Strategy paper and are in danger of not being considered fully and appropriately.

**Overall, Baptistcare is concerned about the ongoing trend by Governments to shift responsibility and risk to the NFP sector.** At the same time, Governments continue to maintain the constraints on the supply and demand of service delivery while increasing the arbitrariness of the punitive measures within the quality system, compliance and sanction opportunities; all of which are driving the sector into the ground.

**The Minister and Government do not seem to understand or do not give sufficient weighting to the irreducible quality of life** we seek to provide within our facilities and community services, and which are integrated in multiple ways into the communities and with the families we serve. This legislation diminishes and undervalues the broader contribution by its fear and risk management.

**Our organisational commitment to spiritual, physical and emotional wellbeing for older Australians** in our sector means the reform agenda as currently contained in the LLLB package is ineffectual and badly designed. Our view of life means we believe there are better and alternative ways to work together, that are not adversarial in achieving the changes. We seek to transform lives and this is less likely to emerge from this underwhelming draft legislation that barely does justice to the word 'reform'.

**The fundamentals of the PC Report into Caring for Older Australians have mostly been lost in this work.** The coercive use of power to achieve the Government's desired ends has meant voices have been silenced when they did not say what was wanted; appropriate time has not been given to allow people to participate; the basis of competition and entitlement has not been enabled; the concepts of enablement and wellbeing for older Australians have already been used as an excuse to withdraw services; only a limited amount of new funding has been provided and is yet to appear, undermining the possible success of any reform package.

### **Overall Recommendation**

Overall Baptistcare believes the legislation is flawed because the reforms are badly designed and too limited. It is Baptistcare and BCA's view that, unless the draft Principles and Determinations documents are made available on an agreed date with a reasonable consultation process and time for reflection on the implications is provided, the legislation as it currently stands is not supported or accepted.

**ATTACHMENT 1  
Supplementary Information**

**Questions on Notice Arising from the Hearing on the 29<sup>th</sup> April 2013**

**1. Evidence of the Impact of the changes to ACFI on Providers.**

Just before the end of the 11/12 Financial Year, the Aged Care Sector was advised of ACFI clawbacks. The specific changes announced were:

- i. A change to the scores in question three of the Activities of Daily Living (ADL) domain, effective for all new appraisals and reappraisals from 1 July 2012 onwards;
- ii. A change to the Complex Health Care (CHC) matrix, also effective for all new appraisals and reappraisals from 1 July 2012 onwards; and
- iii. A one-off reduction in the amount paid under the ACFI at all care levels from 1 July 2012.
- iv. Further, after indexation was applied from 1 July 2012, this meant ACFI subsidy rates would remain at their current, 30 June 2012 level.

ACFI is the funding instrument by which Baptistcare receives operating income to fund care to its residents. Changes to the ACFI instrument in 2012 have resulted in significant and ongoing loss of revenue for Baptistcare. We estimate that the losses are up to \$20,000 or more per resident impacted by the ACFI change which equates to between \$30 to \$60 per day of a loss for residents with a change to their ACFI.

The number of residents that are progressively subject to the new funding rules is based on:

- New admissions into residential aged care after 1 July 2012; and
- Residents expected to be reappraised each year.

The flow of residents into residential aged care triggers the need for appraisal as well as readmissions following a hospital stay. The losses for resident funding are attributed to changes in Question 3 within the ADL domain as well as the change in the Complex Health Domain.

The daily funding change associated with Complex Health Care category rating changes were calculated by multiplying the number of affected residents in each Complex Health Care category with the daily Complex Health care funding loss per resident. This funding loss was \$27.95 when a resident fell from Medium to Low in the Complex Health Care domain (including the 8.75 per cent CAP allowance pre and post ACFI changes).

Annual rates were estimated in the same way as for Activities of Daily Living (ADL) - from a high domain to a medium. We estimate that 4 per cent of total residents will be affected by ADL changes slipping a rating category. We estimate 7 per cent of total residents will be affected by Complex Health Care changes.

The following table highlights the funding change for Baptistcare.

<b>Item</b>	<b>Pre change</b>	<b>Post change</b>
Funding for assistance with Daily Living Activities	\$67.28 PD	\$30.90 PD
Funding for assistance with Behaviour Management	\$7.06 PD	\$7.06 PD
Funding for assistance with Complex Care	\$39.60 PD	\$13.90 PD
Total Care Funding Available	\$113.94 PD	\$51.86 PD
Total Care Funding Reduction		\$62.08 PD
Total Reduction		54 %

This means admitting a resident into Baptistcare with the same diagnosis after the ACFI changes will result in a significant loss of funding.

Baptistcare sees about 30% of its residents change each year which means with the new system changes, at least 300 new ACFI claims have been impacted.

## **2. Implementation of the Productivity Commission**

The Productivity Commission Report on Caring for Older Australians was released in May 2011. The Federal Government's response took months to produce and did not emerge until April 2012 as the Living Longer Living Better Package (LLLB). The Sector took the Government at its word and worked hard to support the apparent commitment to reform.

The Sector was disappointed about key fundamental approaches that were not supported by the Government. Nonetheless, it continued to commit to work with the Government to make the most of what was offered. The Minister has funded NACA through COTA to be the primary consultation body within the sector. A system of committees and advisory groups has been established as the processes through which the work has been rolled out for consultation. This met a key objective of the Minister to have the sector speaking with one voice. Providers were advised that if they spoke out against the package it could lead to the proposed reforms not being achieved. This has been a significant disincentive for many in the sector to speak out and it has led to the leaders in the Sector acting de facto as a control mechanism on the different groups. This has pushed the Alliance into an invidious position of being an arm of the Government as it sought consensus and solutions within its own growing and broader membership, and at the same time as it moved into the closer relationship with Government.

Timeframes for responding have been tight, and currently there are at least four major papers out for consultation with similar timeframes for response; in the middle of the main budgeting period for most providers. Resources are tight and costs for this consultation are high.

An alternative approach would have welcomed the diversity of voices and listened and distilled them without requiring the Sector through the Alliance to do the work of Government. True partnership points to equal power held by the different groups and a willingness to be influenced and changed by the arguments, transformative capacity needs appropriate resourcing of the additional education, debate and dialogue to take place and time provided to enable individuals and groups to understand the implications, do proper analysis; structural, systemic reform is needed in the Sector and good communications that are not propaganda are essential. People learn, think, engage and participate in a multiplicity of ways – we've seen only one way used in this process.

Approximately 5 – 8% of the Productivity Commission's Report recommendations have been covered in the LLLB package which means that although this was probably the 14<sup>th</sup> Report in the last few years with many hundreds of submissions about what was needed from across the Sector submitted at length and consistently, the Government still did not feel it appropriate to go with the generally supported recommendations.

The timeframe waiting for the Government's announcement and release of the LLLB was too long and wasted time at the start of the process.

The peak bodies should have been consulted in their own right without the responses being managed: providers, unions, specialist groups and consumer groups. Greater access, opportunities and dialogue should have been given to a much wider diversity of consumer voices rather than trying to corral it all into one container. The consultation process for

consumers has been very controlled and consumers, current and potential and their families do not know what is happening. Providers are told consistently by politicians that there is no voting benefit in the aged care reforms. I suspect this view is reflected in the processes used and the management of the timeframe.

Consultation and dialogue processes should have been held in each State and Territory with membership given to these groups in each location to facilitate input and voices. Access to the existing advisory and reference groups is challenging and not always accessible or appropriate. Attending as an 'expert' or a 'representative' then also takes time to work through to manage the consultation and feedback. Issues of confidentiality and reporting back are mixed. Chairing and subject matter then should be led equally by the Sector and the Minister's representatives. There should be a clearly identified processes for input, distillation and report/position recommendations made and decisions made and then communicated clearly back out to the sector and consumers.

Far too little attention has been paid to providers in the Community Benefit sector and their particular issues. For Baptistcare, given where our Vision, Mission and Values lie, and our commitment to a particular group of people in our community, and to the needs of rural, regional and remote communities and then having to try and balance the financial performance, it has meant this has become a very tight juggling act in recent months.

The lack of new money to be injected into the sector has not helped the case being made by the LLLB; and the delayed release of what little there is to providers until 2014-2015 and beyond has meant that the plan was in trouble from the start. The significant strings attached to the new money has meant that instead of freeing up the sector the Government continues to control the service to a significant degree beyond what is acceptable or appropriate.

In a recent project sponsored by Baptistcare with two other community based providers (Southcare Inc. and MercyCare) to encourage Young Leaders to become Engaged as Board Members in the Aged Care Sector in WA has highlighted the interest and commitment of young people who are skilled, interested, committed with many already working in the sector. It has also the wide range of learning and relational, networking and community development styles of different people and made use of a wide range of communication processes and strategies to share expertise, but none of this was evident in the approach taken by the Government.

### **3. Current Workforce Approach – What is and is not working and why**

The process to negotiate the workforce supplement was done within an industrial framework and did not deal with the fundamental differences and pressures facing the groups trying to work their way through this issue of increasing wages for employees. As stated at the Hearing, providers are committed to increasing wages for employees; Baptistcare is on record for this, and particularly because this is a highly gendered workforce which needs to be adjusted as it is an issue of justice.

In WA, the Premier and Cabinet took the decision to provide additional direct cash to the community sector to go directly into wages – with no strings and the funding contracts were adjusted accordingly. This was because there was recognition that the sector was historically underfunded and wages for an overwhelmingly female workforce needed to be recognised more appropriately financially. The increases have flowed through into wages because it was across the board; and, the sector was trusted to make the adjustments and because of the commitment to maintain the higher level of funding, the sector embraced the adjustment and it has benefitted staff.

## **So what doesn't work:**

- The Workforce Supplement does not cover on-costs.
- It has a compounding negative effect as wages increase each year
- Many providers are already paying above award wages but this is not recognised
- It does not raise the wages from an equity perspective
- It is linked to union agreements that are not in line with the way work should and needs to be constructed to meet the needs of our employees or clients in our Sector
- Creates broader union access and commitments that should not be driven into agreements through this legislation
- Creates additional challenges because providers have more than one agreement and staff work across services and occasionally agreements
- There is confusion over who/positions particularly will be covered and raises unrealistic expectations for staff that cannot be met by employers
- Reimbursement for training and salary adjustments will be delayed until 2014. So further outlay by the provider without any immediate reimbursement
- Does not assist those smaller rural, regional and remote providers who do not have agreements and for whom the arbitrary choice of size of RACF is not helpful

It is important to note that this proposal also cannot be considered in isolation, because this approach comes into view alongside the significant reduction in income from ACFI in July 2012, including the loss of indexation and no increase in COPO; and this decision is being repeated for Community Aged Care from July 2013 with cuts to the different package levels; and the contemplated adjustments for the DAP and RAD and the default position selected by Government for payment which is unreasonable (see earlier comments); and the shift in powers between the Minister, the Department, the new bodies, and the cost of additional bureaucracy.

## **4. Consultation costs and implications**

Consultation and the decision to participate and engage fully from the West has its own considerations and complications. It has been very much appreciated that the Senate Standing Committee on Community Affairs has visited Western Australia on this occasion and previously and Baptistcare has been pleased to be able to present to the Committee on this occasion and in the past.

The true cost of consultation for such significant reform includes:

- Time required for travel: to go east costs an extra day for every visit. Flights are expensive and inconvenient, getting to Canberra for example can involve going to Melbourne or Sydney first. A two day meeting in the Eastern States will take three days from WA with a late arrival back if travelling from Perth, longer if the travel is from a regional centre; the time difference between the east and west then impacts on the workload capacity on return to the workplace; the frequency of meetings to keep up to date then loads the impact of the time out of the office even further
- NACA or BCA may fund the flight and accommodation, but they do not fund the time for travel
- A national agenda like this requires the attention of the CEO and Senior Leaders in the organisation who are not generally replaced if they are out of the office for two or three days at a time over east
- When nominations occur for participation on a working party/advisory committee its generally 'an expert' in the field, often highly valued and rare in the workplace, not replaced when absent and if travelling to go to a meeting, and this has a significant impact on workload for colleagues and clients



- A policy development/researcher officer/position has to be maintained either internally or externally
- Modelling for the questions being asked in the consultation process: financial, HR, service, quality etc. – time, resources, cost of both
- Consultation with other members in our Baptist national group and time required for them to repeat the process; ongoing communication with staff and residents and families
- Support for the Peak Body through membership fees and costs of any additional lobbying or campaign to try and influence and persuade
- Additional visits to Canberra to lobby on top of what is organised by the peak body
- Time spent locally with MPs/Senators to brief and lobby
- Time not working in the organisation
- Membership costs of NACA as an additional membership cost

### **In Conclusion**

Baptistcare Inc. thanks the Senate Standing Committee on Community Affairs for the opportunity to provide additional information in response to the Questions on Notice asked during the presentation and dialogue with the Committee at its Hearing in Perth on the 29<sup>th</sup> April 2013. We would be happy to provide further information if required.

**Dr C. Lucy Morris**  
**Chief Executive Officer**  
**Chairperson, Baptist Care Australia**

**10<sup>th</sup> May 2013**