



SUBMISSION TO

SENATE STANDING COMMITTEE ON COMMUNITY AFFAIRS

ON THE INQUIRY INTO THE BILLS TO IMPLEMENT THE *LIVING LONGER. LIVING BETTER* AGED CARE REFORM PACKAGE

- **AGED CARE (LIVING LONGER LIVING BETTER) BILL 2013;**
- **AUSTRALIAN AGED CARE QUALITY AGENCY BILL 2013;**
- **AUSTRALIAN AGED CARE QUALITY AGENCY (TRANSITIONAL PROVISIONS) BILL 2013;**
- **AGED CARE (BOND SECURITY) AMENDMENT BILL 2013;**
- **AGED CARE (BOND SECURITY) LEVY AMENDMENT BILL 2013**

APRIL 2013

COTA Australia

GPO Box 1583
Adelaide SA 5001
08 8232 0422
www.cota.org.au

Authorised and co-authored by:
Ian Yates AM¹
Chief Executive

Co-authored by:
Pat Sparrow
Director Aged Care Reform
COTA Australia

¹ COTA records that its Chief Executive, Ian Yates AM, is a Director of the Aged Care Standards & Accreditation Agency (ACSAA) and a Member of the Aged Care Financing Authority (ACFA). The views expressed in this submission are COTA Australia views and not those of either ACSAA or ACFA.

CONTENTS

Executive Summary 4

COTA Australia 5

The Need for and Road to Reform 6

A Collaborative Approach to Aged Care Reform 8

The *Living Longer. Living Better* Reform Package 9

Progressing the Reform to Date - Active Sector Partnership 11

The Aged Care LLLB Bill 12

 Potential amendments to improve the Bill..... 12

 Addressing some issues raised 13

The Quality Agency Bills 17

The Bond Security Amendment Bills..... 18

Implications of the Bills not passing..... 19

Conclusion 19

EXECUTIVE SUMMARY

Parliament now has before it legislation, in the form of five separate but linked bills, to reform Australia's aged care system by implementing the government's *Living Longer. Living Better* aged care reform package announced in April 2012.

COTA welcomes this Senate Community Affairs Committee Inquiry into the Bills, as we welcome robust Senate committee scrutiny of all significant legislation.

The Inquiry provides opportunity to:

- suggest areas in which the government of the day might improve the reforms in the process of their implementation;
- address some issues and misunderstandings that have emerged in debate on the reforms; and also
- address the absolute need for this legislation to be passed in the current session of Parliament.

This submission recaps the need for, and importance of, aged care reform. From a consumer perspective the reforms embodied in the Aged Care (Living Longer. Living Better) Bill, in particular, fundamentally shift the current aged care system toward one which is more consumer focussed and directed. COTA has been advocating for this for many years.

While these Bills do not go as far as COTA would like in a number of areas, they do not prevent those further steps being taken as the next stage in the reform process. The Bills are enabling of, and kick off, a reform process which COTA is confident can be enhanced through the implementation process and in years to come, including through the proposed 2016 independent review.

COTA is strongly urging multi-partisan support for the passage of the Bills so these important reforms can start on time on 1 July 2013. If these Bills do not pass in this session then aged care reform is at risk and older Australians will miss out on the benefits.

COTA AUSTRALIA

COTA Australia is Australia's only peak national aged consumer organisation. Its key purpose is to promote, improve and protect the rights of all older Australians; promote and protect their interests; and promote effective responses to their needs.

COTA Australia is the national policy organisation of the COTA Federation. Its members are the eight State and Territory Councils on the Ageing (COTA) in NSW, Queensland, Tasmania, South Australia, Victoria, Western Australia, ACT and the Northern Territory.

Through these members COTA Australia represents a membership of over 1,000 community based seniors organisations with a combined membership of more than 500,000 older Australians, in addition to 40,000 direct individual members.

COTA Australia has a focus on national policy issues from the perspective of older people as citizens and consumers and it seeks to promote, improve and protect the circumstances and wellbeing of older people in Australia. COTA policies incorporate the views of our members developed through various consultation mechanisms and agreed by the National Policy Council.

COTA's policy work is guided by five policy principles:

1. maximising the social, economic and political participation of older Australians;
2. promoting positive views of ageing, rejecting ageism and challenging negative stereotypes;
3. promoting sustainable, fair and responsible policies;
4. focusing on protecting against and redressing disadvantage; and
5. protecting and extending services and programs that are used and valued by older Australians.

Aged care reform has been a policy area of high priority for COTA Australia for many years and COTAs have specifically worked toward the reforms contained in these Bills since 2009.

THE NEED FOR AND ROAD TO REFORM - FROM THE CONSUMER PERSPECTIVE

For many years COTA has advocated for reform of Australia's aged care system based on what older people have said they want as they age.

For over two decades COTA has consulted with residents in residential aged care, consumers of HACC funded community care services, recipients of CACP and EACH home care packages, with carers and families of direct consumers; and with older people within the aged care target groups but not yet in need of support and care.

COTA has also consulted and worked with providers of aged care, health and community care professionals, and the industry unions, to seek collaborative ways forward to achieve what consumers need and want in an aged care system.

There is much talk about how aged care will have to change once the "Baby Boomers" start needing it. We make the point that older people have been telling us for the last twenty years they need and want the changes that we have been advocating, and which the "Living Longer. Living Better" (LLL) reforms move partially towards. Older people have been short-changed for far too long by an aged care system that has been far too slow to transform.

Older people want an aged care system that:

- provides services and support to them as a basic right of citizenship (based on assessed need);
- gives them choice and control over their own lives, including the services they receive;
- provides easy access to services they need, when, where and from whom they prefer;
- provides information, advice and support to help them make the best choices and decisions;
- enables them to stay living at home as independently as possible for as long as possible;
- ensures they receive high quality care services;
- has a transparent, equitable and affordable pricing system; and
- has robust, fair and independent monitoring and control mechanisms.

The current aged care system does not deliver these outcomes. Both the Hogan, and later the Productivity Commission, reports clearly demonstrated and documented this. Consumers are secondary at both policy and practice levels, despite notable and commendable exceptions. The current aged care system is:

- confusing and difficult to find out about, access and navigate
- frequently untimely and inappropriate in response to needs
- provides little real choice about what kind of service you receive and when and where it is provided
- is inequitable, not transparent and inconsistent in its pricing
- removes rather than enables control over one's life
- biased to residential rather than in-home and community care

In addition the current system is clearly underfunded. Its funding systems create the wrong incentives, too many providers operate unsustainably, and there are major workforce problems and future challenges.

Following the Hogan Review² in 2004 COTA participated in working groups set up by Coalition Ministers, first the Hon Julie Bishop and then Senator Santo Santoro, on the long term options recommended for consideration by Hogan. Neither working group resulted in fundamental policy change by government, despite strong and significant recommendations that were in keeping with the later recommendations of the Productivity Commission³.

COTA lobbied both the then Opposition and the Government during the 2007 Election, but aged care reform was not on the agenda. However continued pressure, including through the National Aged Care Alliance (NACA)⁴, resulted in the April 2010 Productivity Commission Inquiry and subsequent "Caring for Older Australians" Report.

So that Government could hear first-hand what older people want as they age, COTA initiated and supported the *Conversations on Ageing* consultation on aged care reform in late 2011/early 2012 as part of the consideration process of the "Caring for Older Australians" report. Over 3000 older people attended 32 *Conversations* so they could have their say.

The summary report of the *Conversations on Ageing*, which reinforces the key outcomes older people and their families are seeking as reported above, can be found on the COTA Australia and Department of Health and Ageing websites⁵.

² "Review of Pricing Arrangements in Residential Aged Care", Professor Warren Hogan, 5 April 2004.

³ Productivity Commission, Caring for Older Australians, Report No. 53, June 2011

⁴ <http://www.naca.asn.au/>

⁵ www.cota.org.au/lib/pdf/COTA_Australia/public_policy/conversations_final_report.pdf

A COLLABORATIVE APPROACH TO AGED CARE REFORM

While COTA advocates strongly on behalf of older people it recognises that reform can only be achieved by working collaboratively with others involved in the delivery of aged care. This is why COTA is an active member of the National Aged Care Alliance (NACA).

NACA is a representative body of 38 peak national organisations in aged care, including consumer groups, providers, health professionals and unions, working together to determine a more positive future for aged care in Australia.

The aged care sector, through NACA, mounted a clear and compelling case for the reform of aged care.

In 2009 NACA produced the "NACA Vision" - *Leading the Way - Our Vision for Support and Care of Older Australians*⁶. That became the NACA template for the terms of reference for the promised Productivity Commission Inquiry.

Following the release of the Productivity Commission's "Caring for Older Australians" Final Report NACA produced the *Blueprint for Reform*⁷ in February 2012. The Blueprint set out the sector's view of the required reforms, much of which had been recommended in the Productivity Commissions (PC) *Caring for Older Australians* report.

The foundation of the reform sought was the creation of a sustainable market based system driven by consumer need and demand. Consumers would receive an entitlement to services and support based on their assessed need. Service supply would not be constrained by the current rationed approach allowing providers to develop and offer the services consumers are seeking. Other reform principles included transparency, independence, choice and quality.

COTA was a strong supporter of the Blueprint as it substantially aligned with the views and needs of older people. As an alliance of multiple and diverse interests and organisations NACA positions are consensus based which requires all members to negotiate an approach that all parties can support. Aged care reform was only ever going to be achieved if the sector presented a united position. The Blueprint was that united position on which every member organisation formally signed off.

⁶ http://www.naca.asn.au/Publications/NACA_Vision.pdf

⁷ http://www.naca.asn.au/Age_Well/Blueprint.pdf

THE "LIVING LONGER. LIVING BETTER" (LLL) REFORM PACKAGE

In April 2012 the Government released its *Living Longer. Living Better* (LLL) aged care reform package. While the LLL package does not fully meet the sector's reform requirements it provides an excellent start to the creation of a consumer focussed and directed aged care system.

From a consumer perspective the key positive elements of the reform package are:

- more packaged care to support older people to remain living independently in their own home;
- the introduction of consumer directed care (CDC) in all new packages of care from 1 July 2013 with conversion of all packages by 1 July 2015;
- the Gateway – incorporating a national call centre and the *My Aged Care* website to provide information and support for older people and their carers as they navigate the aged care system;
- a consistent assessment framework to be implemented independently through the Gateway (over time);
- a new and more transparent fee structure in residential care, providing choice for consumers of how to pay for accommodation;
- a new and more consistent fee structure in home care across Australia;
- greater consumer direction of residential care services;
- more funding for dementia care services; and
- more funding for advocacy services to support older people receiving aged care to speak out.

From the day of the LLL announcement COTA has pointed out the shortcomings of the reform package including that:

- there is continued rationing of services through the ACAR process;
- consumers will not have an entitlement, based on assessed need, to the services and support they need;
- the Gateway does not include a physical presence in local areas which older people can access; and

the package did not implement the PC recommended financial products – Pensioner Savings Account and the Aged Care Home Credit scheme which would support older people to downsize and/or unlock the equity in their own home. These were key elements of an overall financial approach. If Government could not support these the reform package should have included market based alternatives rather than bland references to existing reverse mortgage products, which are not able to meet the needs in this area.

Government stated that the continued rationing, and the subsequent lack of entitlement for consumers, was in response to the immaturity of the aged care system at present. Whether or not this is the case a number of the reforms are designed to move the system towards a market model in the years to come. COTA hopes, and will work hard to ensure, that these reforms ready

the sector for the move to a market model so that following the five year review Australia will have an aged care system that is driven by, and meets, consumer demand.

The legislation includes a public review of the reforms (commencing no later than early 2016) and details the areas that must be addressed. In COTA's view this is an absolutely crucial element of the legislation.

PROGRESSING THE REFORM TO DATE - ACTIVE SECTOR PARTNERSHIP

Most of the reforms proposed as part of LLLB are in various stages of design and implementation. The government has adopted a strong partnership approach to planning the design of each component of the reforms, largely through processes that involve many hundreds of people from all stakeholders - providers, professionals and independent experts, consumer organisations, and where appropriate the relevant union(s).

This work is largely occurring under the auspice of NACA, with Secretariat support provided by COTA on contract with the Department. A significant number of advisory groups have already been established to advance this work with membership drawn from NACA, as well as other key organisations, including National Seniors Australia, the AMA, local government and a range of HACC specific service providers.

Current work in progress includes:

- development of **packaged care CDC guidelines** in anticipation of the introduction of the new packages from 1 July 2013. Sector advice on this is available at http://www.naca.asn.au/Working_Groups/CDC/NACA-Home_care_CDC_Phase1_Final.pdf
- design and implementation of **The Aged Care Gateway** from 1 July 2013. Advice provided to date is available at <http://www.naca.asn.au/Publications/Gateway%20Advisory%20Paper.pdf>
- review of the residential care **Specified Care & Services Schedule** to define the standard package of care to be provided to all residents given the removal of the low/high care distinction. .
- creation of the new **Commonwealth Home Support Program** bringing together the existing HACC, NRCP, ACHA and DTC programs. Reviews of respite, HACC Service Group II, meals services, community transport, home maintenance and modification are all in their early stages.
- Development of **Quality Indicators for residential aged care** with the aim of providing meaningful information to assist consumers make choices about the services they need.

This is quite a unique model which enables the sector to provide informed and fully discussed but independent advice to both the Department and the Minister in better ways than has been possible previously. In addition the over-arching NACA Ageing Expert Advisory Group (AEAG) meets regularly with the Aged Care Reform Implementation Council (ACRIC) to provide it with the sectors view of the reform development and implementation.

The Advisory Groups issue communiqués, which provide information on both reform progress and the sectors views and issues, following meetings. The communiqués are available at <http://www.naca.asn.au/Reform.html>

The sector has provided sound advice to guide the reforms. Much of the advice has been picked up, particularly in relation to the CDC home care packages and The Gateway, which are the most advanced reform elements. This advice will be incorporated into the subordinate legislation.

There has been considerable investment in these developments by all across the sector. It is crucial that legislation is passed to enable a number of key reforms, such as the CDC packages and The Gateway, to commence on schedule from 1 July 2013.

THE AGED CARE (LLL) BILL

This is the principal legislation implementing the LLL reforms and most of this submission is addressed to its provisions.

COTA strongly supports the passage of this Bill as it is the central enabler of the LLL reforms, which we have made clear we support despite being disappointed the government did not go further.

The following comments include a limited number of proposals for improvement of this Bill.

POTENTIAL AMENDMENTS TO IMPROVE THE BILL

- *Entitlement and the 2016 independent review*

COTA has consistently argued for years that consumers who are assessed in need of a specified level of support and care should receive that on a non-rationed basis -what we have called an "entitlement". This position is supported in the NACA Blueprint. This is not achieved in LLL, even though CDC goes some of the way.

We therefore propose that clauses 4 (2) (b) and (c) be amended to read:

(b) when the number and mix of places for residential care and home care should cease to be controlled and the timetable and steps to achieve that;

(c) what further steps should be taken to change aged care services from a supply driven model to a consumer demand driven model, and the timetable to achieve this;

We note that Catholic Health Australia has presented a similar proposal.

- *Powers of the Aged Care Commissioner*

The NACA Blueprint proposed the establishment of an independent Australian Aged Care Commission (AACC) that would inter alia include a complaints system. An independent complaints system was also recommended by the Walton Report.

The government decided not to establish the AACC. However COTA remains concerned about the lack of independence of the complaints processes.

We therefore recommend as a minimum first step that a clause be added to the Bill that amends clause 95A-1 (2) (a) of the Aged Care Act 1997 to substitute the words " and make recommendations to the Secretary arising from the examination;" by the words "and make enforceable determinations arising from the examination;".

- *Aged Care Financing Authority (ACFA)⁸*

The Aged Care Financing Authority was established on 1 August 2012.⁹ COTA strongly supports the role and functions of the ACFA, which has already undertaken substantial work to advance the reforms.

⁸ Again COTA acknowledges that its CE, Ian Yates AM, is a member of the ACFA. The views expressed here are the views of COTA Australia and not those of the ACFA.

However the NACA Blueprint proposed, and COTA supported, that the Productivity Commission's proposed independent AACC should include a Pricing Authority. The government did not go that far.

COTA therefore proposes that the ACFA be established by the addition of a clause to that effect in the Bill, and that provision be made for a Principle that prescribes the Operating Framework of the ACFA, as already recommended by the ACFA and approved by the Minister.¹⁰

Such an amendment would give certainty to the existence of the ACFA. It does not go as far as recommended in The Blueprint because it accepts the current advisory role of the ACFA, but it would be a step in the right direction.

Amendments not to jeopardise passage of Bill

While recommending these specific amendments to enhance the LLLB Bill COTA wishes to make clear that while we hope that the Committee will support them, their inclusion in the Bill should NOT be a condition of its passage. If they are not accepted the Bill should still pass.

ADDRESSING SOME OF THE ISSUES RAISED IN DEBATE ON LLLB

This section of our submission addresses a number of matters that have been raised in public debate on the LLLB aged care reforms. Not all of these issues relate directly to the Bills but may influence thinking and ongoing discussion.

User charges

The LLLB reforms introduce higher nominal user charges for aged care services and make user charges a higher percentage of the total cost of aged care services. This was supported by all members of NACA as part of the Blueprint.

This was a big issue for COTA. We put it to our constituents and It was a topic of considerable discussion at the *Conversations on Ageing*. Consumers responded, in the main but not unanimously, that higher user fees and charges were acceptable but only on the basis that they were equitable, affordable and being paid for a better aged care system than we have now.

Government backed off the robust but equitable means and assets test proposed by the PC and supported by COTA and the NACA Blueprint.

As a result of the government adopting a narrower base for user charges than recommended by the PC, charges for some, *especially in home care*, will be higher than if the broader proposal had been adopted.

COTAs support for the fees and charges proposed was at the conceptual level and as part of an overall strategy for the affordability of the aged care system. Annual and Lifetime caps on what

⁹ <http://www.livinglongerlivingbetter.gov.au/internet/living/publishing.nsf/Content/Aged-Care-Financing-Authority>

¹⁰ <http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-aged-care-acfa-revised-framework>

people pay for aged care are an essential part of the new user contributions regime and COTA has welcomed them as a key way of protecting the overall affordability for individual consumers. We have also welcomed the extension of hardship provisions to home care fees. This needs to be exercised consistently but with tolerance in the early stages.

User contributions are an important part of the future sustainability of aged care and are a key component of a market based system. It is vital to start changing the culture and expectations now but user contributions must be affordable and equitable.

It is a current reality that many pensioners are paying in the private market for in-home care because they cannot get access to a home care package or to HACC funded services, while at the same time people with significant means are receiving substantial services and not paying equitably if at all for them in most jurisdictions. The LLLB user charging approach is more transparent and equitable than the existing system but the affordability for individual consumers must be monitored.

COTA notes and welcomes that user charges, including the annual and lifetime caps, are part of the 2016 Review. However the equity, efficacy and impact on access of the new user charges, in particular in relation to in home and community (home support) care and support services, needs to be monitored closely by the sector and the ACRIC from 1 July 2014, not waiting until the 2016 review. If there are serious problems in terms of disadvantage then government will need to address them early.

COTA does not support any proposed increase to the level of the caps even before they have been introduced. All this means is that the consumer pays more and government less. COTA totally opposes any higher level of caps at this stage and in line with our comments above the fees and charges regime needs to be carefully monitored and evaluated.

Aged care funding

In advance of the announcement of the LLLB reform package Government announced that it was bringing growth expenditure through the Aged Care Funding Instrument (ACFI) back to the originally predicted level. This has naturally caused concern and heated debate over the likely impacts. COTA advocated for, and is a member of, an ACFI Monitoring Group which is meeting regularly to monitor the impacts of the ACFI adjustments.

The ACFI adjustment was not part of the reform package but has often been confused as if it is.

The ACFI adjustment outcome has proved to be as predicted by department. The 1.6% reduction across all ACFI domains has resulted in a reduction in growth of funding by \$2.17 per appraisal per day, and the reclassification of the ADL and CHC domains has reduced funding by \$0.30 per appraisal per day.

The larger issue is the variable financial capacity within sector and lack of any overall strategy to improve the viability of aged care services that operate in the lower quintiles of financial viability. COTA has previously proposed an industry adjustment plan be developed for aged care. The task of developing this could be given to the ACFA.

Workforce supplement

COTA was excluded from the Workforce Compact and Supplement negotiations, so we have limited capacity to comment on it however we note the controversy about the workforce supplement designed to kick-start higher levels of remuneration in aged care.

COTA supports higher wages in aged care as did the NACA Blueprint. To attract quality staff you have to pay competitive and quality remuneration.

However COTA does note that:

- The government has returned \$1.2 billion of the curtailed ACFI growth to the sector for the forward estimates period. These funds do involve some redistribution from residential to home care.
- The Blueprint called for:
 - a bridging supplement for payment of fair and competitive wages for nurses, allied health professionals, personal carers and support staff;
 - the Government, unions and provider representative organisations to sign a Heads of Agreement which ensures the bridging supplement is paid to aged care providers for increased wages; and
 - incorporation of the wage increases into a registered industrial agreement to enable the supplement to be paid to individual aged care providers and ensure it is used solely to pay fair and competitive wages.
- All home care providers and Residential Care providers below 50 beds are exempt from the industrial agreement provisions.
- 75% of all providers currently have an EBA

COTA believes that whatever funding mechanism is used should guarantee the extra funds go directly to wages.

Accommodation payments

Consumers strongly support the LLLB provisions that provide for real choice of method of payment for accommodation between periodic payment, a refundable lump sum, or a mix of both; and also the requirement to publicly advertise accommodation rates - both periodical payments and lump sums. Consumers strongly object to the current system where the price is often set based on the consumers' total assets. This has led to cherry picking consumers based on the amount they can afford to pay.

The 28 day period in which consumers will have to decide how they will pay is strongly supported, noting that many people enter residential care in a crisis context and have little time and lack independent financial advice in making a decision on means of payment. This method removes to some degree the capacity of providers to discriminate on the basis of means of payment.

COTA does not think there will be big shift away from RADs in the short term. If it does that will be an expression of consumer preference, which is the purpose of the reform. However this should

be closely monitored and government should be prepared to provide bridging finance or loan guarantees as part of an industry adjustment package.

A broader plan is needed to develop a more maturely financed industry, as originally recommended by the Hogan Review.

Timing of the Review

COTA believes the timing of the LLLB Review to commence in 2016 is appropriate and sensible. Most of the changes to the system will only be in effect from 2014 so having the review any earlier means the reforms will not have been fully operational for any time. As noted above there is independent monitoring of the reforms and if there were any serious unintended consequences action could and should be taken in advance of the review.

Subordinate Legislation

Much of the detail of the reforms will be contained in subordinate legislation that can only be introduced after the passage of these Bills. This is the normal legislative process. We note that:

- only a minority of the Principles apply to 1 July 2013 and the majority will have sufficient time to be the subject of consultation;
- all subordinate legislation is disallowable by Parliament and it can be anticipated that the makeup of the next Parliament may be different than the current situation;
- the sector is already being heavily consulted in relation to many of the Principles through the NACA Advisory Groups that are working on the details of the implementation of almost all components of LLLB.

THE QUALITY AGENCY BILLS¹¹

The purpose of the Australian Aged Care Quality Agency Bill is to establish a new Australian Aged Care Quality Agency under the *Financial Management and Accountability Act 1997* (FMA Act) in line with the recommendations of the Uhrig Review. This body will replace the existing Aged Care Standards and Accreditation Agency from 1 January 2014.

The new body will be the sole agency that providers of aged care, approved under the *Aged Care Act 1997*, will deal with in relation to the quality assurance of the aged care services that they deliver, whether those services are delivered through a residential aged care service or in the person's own home.

The Quality Agency will commence functions relating to residential aged care services from 1 January 2014, and will commence functions relating to home care services from 1 July 2014.

COTA points out that the functions of the Quality Agency were proposed by the PC and the Blueprint to be incorporated within the proposed independent AACC. Government has decided to go in a different direction. This is not a total surprise as both the former Coalition government, and the Labor governments, have pursued the implementation of the Uhrig Review recommendations to bring all such agencies within the scope of the FMA Act.

COTA supports the extension of the Agency's role to cover quality in home care services, on the proviso that it recognises that this must be managed in a different way to residential care.

However COTA does have concerns about the Quality Agency being brought much more directly under Ministerial and Departmental control. We believe the status and capacity of the Advisory Council will be a critical factor in the continuing success of this Agency and recommend that the Committee tells government to make it of high standing in terms of support, remuneration and independence.

¹¹ We note again that the CE of COTA Australia, Ian Yates AM, is a Director of the Aged Care Standards and Accreditation Agency. However the position presented here is that of COTA Australia alone.

THE BOND SECURITY AMENDMENT BILLS

These Bills extend the existing Guarantee Scheme for bond balances to refundable accommodation deposits (RADs) and refundable accommodation contributions, which will be new types of lump sum accommodation payments payable by care recipients who enter residential care from 1 July 2014. This ensures protection for all lump sum payments made by care recipients, regardless of whether the lump sum payment was made before or after 1 July 2014.

COTA understands why the government would like to get the bond guarantees off the balance sheet. However a series of individual insurance arrangements would have resulted in a considerable charge that providers would have passed on to consumers.

COTA made strong representations to government on this matter and welcomes the decision to withdraw the LLLB proposal that bonds and RADs need to be privately insured and to defer this matter to the 2016 Review.

IMPLICATIONS OF THE BILLS NOT PASSING THIS SESSION

COTA is deeply concerned at any prospect that these Bills might not be passed before 30 June 2013 so that planned reform can commence on 1 July 2013 and there can be certainty about reforms scheduled after then, such as the removal of the low care / high care distinction.

If the Bills do not pass older people will miss out on access to consumer directed care packages, more care at home and better information and support to navigate the system through the Aged Care Gateway. Reform which has taken so long to achieve would be set back for a substantial period.

Quite specifically the current Aged Care Approvals Round (ACAR) would be effectively torpedoed as providers have applied for residential places on the basis that the low /high care distinction will be gone and all new places will attract the higher accommodation rates. They will have applied for home care packages on the basis that they are CDC.

There would also be broader financial sustainability implications for the whole sector, caused by the consequent uncertainty as to what arrangements will pertain into the future.

CONCLUSION - SEEKING MULTI-PARTISAN SUPPORT

Aged care reform is vitally important. It has been long argued and fought for. Successive attempts have been made to reform aged care with differing levels of success. The LLLB reform package, embodied in the legislation currently under consideration, represents a more fundamental shift than previous efforts. It includes a number of initiatives that deliver what older people want as they age including more home care and improved transparency and equity for consumers in payment for residential care accommodation.

This is essentially enabling legislation with an inbuilt public and robust review process which will further enhance the system for all older people. This must be kept in the forefront of consideration.

COTA seeks multi-partisan support for the passage of the aged care reform Bills for the benefit of all older Australians.

Passage of the aged care Bills, in essence enabling legislation for the range of reforms, will at last begin the shift to a consumer directed service system, and to a more financially sustainable system.