



## **Submission to the Inquiry into the Aged Care Bill 2024 [Provisions]**

**September 2024**

*[www.anglicare.asn.au](http://www.anglicare.asn.au)*

## About Anglicare Australia

Anglicare Australia is a network of independent local, state, national and international organisations that are linked to the Anglican Church and are joined by values of service, innovation, leadership and the Christian faith that every individual has intrinsic value. Our services are delivered in partnership with people, the communities in which they live, and other like-minded organisations in those areas. With a combined income of \$2.19 billion, a workforce of over 20,000 staff and 5,600 volunteers, the Network delivers more than 50 service areas in the Australian community. Our services are delivered to over 500,000 people and reach close to 1.17 million Australians in total. In all, Anglicare services reach almost one in every twenty Australians.

As part of its mission the Anglicare Australia Network partners with people, families and communities to provide services and advocacy and build resilience, inclusion and justice. Our first strategic goal charges us with reaching this by influencing social and economic policy across Australia with a strong prophetic voice; informed by research and the practical experience of the Network.

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## Contents

About Anglicare Australia .....	2
Introduction .....	4
Changes to the Exposure Draft .....	5
Whistleblower protections .....	5
Supporters.....	6
Promoting timely regulatory action .....	6
Aged care funding .....	7
Funding to support equitable access.....	7
Aged care pricing determinations.....	8
Support for transition.....	8
Conclusion .....	10

## Introduction

Anglicare Australia welcomes the opportunity to make this submission to the Senate Standing Committee on Community Affairs (the Committee) Inquiry into the Aged Care Bill 2024 [Provisions] (the Bill).

Anglicare Australia Network members supported over 68,700 Australians through aged care services across every state and territory in the 2022-23 financial year. With the support of more than 9,000 staff and over 1,000 volunteers, the Network provides support in a range of settings including residential care, community-based care services and Independent Living Units and retirement villages. In addition, Network members assist older people through financial counselling, emergency relief, housing and homelessness, and community-based mental health programs. This experience has given us unique insight into the work that needs to be done as a society to ensure our later years are valued.

The introduction of this Bill to parliament has been long awaited and marks a historical moment for aged care in Australia. Anglicare Australia has remained actively engaged with the suite of aged reforms that began with the start of the Royal Commission into Aged Care Quality and Safety and we celebrate the delivery of a new Aged Care Act.

Broadly speaking, Anglicare Australia encourages the Committee to support the introduction of the Bill. Although reform has already begun across many parts of Australia's aged care system, a new Aged Care Act is an important step in achieving the systemic change needed to improve outcomes for older Australians and support the long-term viability of the aged care system. Further delays to the introduction of a new Act will have wide reaching impacts on older people across the country and will place increased risk on the organisational sustainability of aged care providers, many of whom are already struggling.

We note that there are several aspects of the Bill which are of concern, and we encourage the Committee to give these areas greater consideration. Anglicare Australia's submission highlights issues including whistleblower protections, timely regulatory action, the need for equitable funding and pricing, and the need to provide support as the sector transitions. Our recommendations centre on ensuring a new Act supports the aged care sector in building a sustainable and viable system which places the older person and their rights at its core.

The passage of this Bill is the first step in a much longer and larger transition process to a new aged care system. We look forward to continued engagement with the Australian Government and aged care sector to improve outcomes for older Australians.

## Changes to the Exposure Draft

Anglicare Australia recognises that there are various aspects of the Bill which differ from the Exposure Draft published and consulted on earlier this year. We thank the Department of Health and Aged Care and Australian Government for many of the changes which have been made in response to the feedback raised during consultation.

Notable changes to the Bill which Anglicare Australia supports include:

- The decision of Government to remove criminal penalties associated with registered provider duty and responsible person duty.
- Changes to the effect of the Statements of Rights which create a positive obligation for registered providers whilst also providing strengthened recognition of competing and conflicting rights. This change supports providers to better balance their obligations as both an aged provider and employer.
- Greater independence of the Complaints Commissioner by changing the nature of the role from staff member of the Aged Care Quality and Safety Commissioner to appointment by the Minister for by written instrument.
- Pending the outcomes of ongoing consultation, Government commitment to legislate a statutorily permanent First Nations Aged Care Commissioner.
- Greater clarification of provisions related to the classification of retirement villages as funded aged care services.

However, there remain several provisions within the Bill which Anglicare Australia raised concerns about during consultation on the Exposure Draft. We recommend the Committee further consider the impact of these provisions.

## Whistleblower protections

During consultation on the Exposure Draft, Anglicare Australia raised concerns with various parts of the proposed regulatory and compliance framework. Including aged care workers in the list of people who can be receive a qualifying disclosure of information is one of these concerns, and these provisions remain unchanged in the Bill.

We recognise the need for whistleblower protections and the role these protections play in promoting quality and safety. It is equally important to ensure that disclosures of substandard care are made to people who have the greatest ability to respond.

Anglicare Australia believes it is unreasonable to expect all aged care workers, including volunteers, to be prepared to receive a qualifying disclosure. Instead, we recommend that registered aged care providers be required to identify specific people or roles who have authorisation to receive a qualifying disclosure. This will not only provide greater clarity to older people, their families, and staff, but it will help ensure that disclosures are properly handled.

## Supporters

Anglicare Australia welcomes the inclusion of a simplified framework for Supporters of people receiving aged care services. However, we remain concerned about the practicality of these provisions due to their overlap with State and Territory legislation, such as guardianship arrangements. Anglicare Australia recommends that the commencement of these provisions be delayed allowing for additional consultation with the aged care sector and State and Territory governments.

## Promoting timely regulatory action

Clear timeframes play an important role in communicating to older Australians what they can expect when they engage with the system. These timeframes, however, do not extend to all government responsibilities.

Anglicare Australia notes that the Aged Care Quality and Safety Commission and Systems Governor both have responsibilities and decision-making powers that are not subject to clear timelines. We recommend that the Bill be amended to include clear timelines for processing, notification of decisions, and actioning responses to complaints.

### **Anglicare Australia recommends:**

- Removing aged care workers from the list of people who can receive qualifying disclosures. Instead, registered aged care providers should be required to identify specific people or roles who have authorisation to receive a qualifying disclosure.
- Delaying the commencement of Supporter provisions, with further consultation on implementation and transition be undertaken with the aged care sector and State and Territory governments.
- Amending the Bill to include clear timelines for processing, notification of decisions, and actioning responses to complaints.

## Aged care funding

The introduction of the Bill was announced by Government as part of a suite of aged care reforms which included the Government's long-awaited response to the Aged Care Taskforce. Anglicare Australia welcomes the response, which is incorporated into Chapter 4 of the Bill, and relates to aged care funding arrangements. Despite the publication of Chapter 4 of the Bill, there are still many unanswered questions and areas of high risk for aged care providers.

### Funding to support equitable access

Anglicare Australia's submission to the Aged Care Taskforce called for the aged care system to be funded in a way that is sustainable and fair.

In its response, the Government committed to remaining the majority funder of aged care services and this has been included in the Bill. However, the Bill does not require the Government to fund aged care services to meet the needs of older Australians.

The suite of changes to aged care funding will provide some much need relief to the aged care sector and the inclusion of a *no worse off* principle ensures certainty for people currently receiving aged care services. Yet, the changes fall short of reassuring Australians that when they need and have been approved for government-funded aged care services, they will be able to access those services. For a new rights-based Aged Care Act to create the significant systemic reform needed to address the issues with accessibility identified by the Royal Commission into Aged Care Quality and Safety, the Bill must include a right to access the services that a person has been assessed and approved for. Without this change we risk ending up with the same issues, a ballooning wait list and extensive wait times.

Anglicare Australia's recently published *Life on the Wait List* report explored the impact that prolonged wait times for home and community aged care has on older people and the broader community. The impacts are wide reaching, with older people turning to an already struggling public health system for support, prematurely entering residential aged care, or simply going without necessary care, all while waiting to access home care funding.<sup>i</sup>

Some aspects of the Bill and broader reform will address part of the root cause of home care wait times, a broader issue remains. Older people are not being provided with the right to access the government-funded aged care services they have been approved as needing. Nor are they given a right to timely access to services. The absence of these rights has meant that the Government can continue to provide funding based on priority of need.

Anglicare Australia has continuously recommended the provision of a right to timely access to services, and we again raise this recommendation for the Committee. The Statement of Rights should be expanded to include this right for older people who have an assessed need for services. Further, the Statement of Principles should be amended to require Commonwealth funding for aged care services to meet the assessed needs of those approved for services.

### Aged care pricing determinations

Numerous Anglicare Australia Network organisations raised concerns with changes to care management funding. Provisions in the Bill halve the current maximum care management fee amount that can be charged by providers, a fee which is predominantly used to supplement administrative costs or organisational overheads associated with care delivery.

Under the new funding arrangements, the overheads of these organisations will be considered and built into unit pricing for services. While this may seem like a positive change, unit pricing is not determined independently but is instead a decision for Government, providing little reassurance that service fees will reflect the real cost of delivering services. Anglicare Australia recommends that pricing determinations be included in the role of the Independent Health and Aged Care Pricing Authority, which already undertakes regular consultation with the sector and provides advice to the Australian Government on aged care pricing and costing matters.

By expanding its role to include the determination of aged care pricing, providers and older Australians can be sure that funding amounts reflect the true costs of quality services. Without this change there can be no certainty that service pricing is solely determined by evidence and practice instead of politics.

#### **Anglicare Australia recommends:**

- Expanding the Statement of Rights to include a right to timely access to services an individual has been approved access to.
- Amending the Statement of Principles to require Commonwealth funding for aged care services to meet the assessed needs of those approved for services.
- Including aged care service pricing determinations in the role of the Independent Health and Aged Care Pricing Authority.

### Support for transition

As described by Government, this Bill and other changes are ‘once in a generation’ reforms. The commencement of a new Aged Care Act will involve large-scale changes for government, providers, workers, and older people. These changes should not be rushed.

Anglicare Australia remains supportive of the Government's ambition for timely reform, and we recognise the need to ensure all older persons accessing aged care have rights and are supported to ensure the implementation of these rights. Nonetheless, we must not jeopardise the success of a new system by rushing providers, workers, and older people through implementation.

Organisational processes will change, ICT system will need to be upgrade, staff will need to be trained, and older people will need to be educated on their rights. All these changes will require time, understanding and resourcing. The Government must remain cognisant of the pressure this reform will put on the sector and the risk older people face from a rushed or under-resourced transition.



Submission to the Inquiry into the Aged Care Bill 2024 [Provisions]

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We understand there are plans for further consultation with the sector to support the necessary changes. However, there are still many parts of the Bill that are dependent on subordinate legislation and other Government activity. This limits the sectors' ability to prepare as needed.

Anglicare Australia recommends that a transition timeline be included within the Bill that provides the sector with a six to twelve month transition period for from the moment all information is available. This will not stop older people from having their rights acknowledged and fulfilled from 1 July 2025. Instead, it ensures that the sector is not being set up to fail.

## Conclusion

Anglicare Australia thanks the Committee for the opportunity to make this submission. The introduction of this Bill marks a historic moment for aged care in Australia, and we encourage the Committee to support the introduction of the Bill.

Further delays to the introduction of a new Act will have wide reaching impacts on older people across the country and will place increased risk on the organisational sustainability of aged care providers, many of whom are already struggling.

Anglicare Australia's submission highlights issues including whistleblower protections, timely regulatory action, the need for equitable funding and pricing, and the need to provide support as the sector transitions. Our recommendations centre on ensuring a new Act supports the aged care sector in building a sustainable and viable system which places the older person and their rights at its core. We encourage the Committee to give these areas greater consideration.

We look forward to continued engagement with the Australian Government and aged care sector to deliver on the promised reforms and improve care for older Australians.

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<sup>i</sup> Anglicare Australia (2024) [Life on the Wait List](#).