

Senate Community Affairs Legislation Committee inquiry into the Aged Care Quality and Safety Commission Bill 2018 and related Bill – OPAN suggested amendments and answer to questions on notice

28 September 2018

Aged Care Quality and Safety Commission Bill 2018 - amendments

In relation to the Aged Care Quality and Safety Commission Bill 2018, OPAN provides the following feedback:

1. Inclusion of NACAP advocates as representatives of aged care consumers in definitions section of the Aged Care Quality and Safety Bill 2018 is essential

OPAN's view is that "representative of aged care consumer" needs to be added to the definitions section and ensure that NACAP advocates are included in this definition.

We would suggest the following addition to the definitions:

Advocate:

A person acting for bodies that have been paid advocacy grants under Part 5.5 of the *Aged Care Act 1997* as part of the National Aged Care Advocacy Program

Consumer representative:

- formal decision makers within relevant state and territory legal frameworks. For example, appointed guardian by Victorian Civil and Administrative Tribunal
- informal decision makers, including advocates, as agreed to by the person themselves or by their formal decision maker

2. Consideration of the inclusion of, or the ability for, the Commissioner to determine additional classes of 'authorised officers', and appoint those 'authorised officers', who may enter with consent in the Aged Care Quality and Safety Bill 2018 is required

OPAN suggests the following amendments:

Insert separate Section/ clauses following Section 73:

- (1) *The Commissioner may, in writing, make additional classes of officials, such as authorised consumer representatives*
- (2) *The Commissioner may, in writing, appoint a person as an authorised consumer representative if they are an advocate or person acting for bodies that have been paid advocacy grants under Part 5.5 of the Aged Care Act 1997*
- (3) *The authorised consumer representative may perform duties in line with the Aged Care Act 1997 subsection 56-1 (k), 56-2 (j) and 56-3 (j)*
- (4) *The authorised consumer representative may have such access to the service as is specified in the User Rights Principles*

74 Identity cards

- (1) The Commissioner must cause an identity card to be issued to a person who is:

Insert (c) authorised consumer representative

Question on notice No. 1 – Appointment of the Clinical Advisor to the Commissioner as a statutory officer

OPAN is supportive of the Clinical Advisor to the ACQS Commissioner being a statutory officer. This will enable the position to have the standing and longevity required to effect change and provide appropriate advice to the Commissioner and Minister.

Question on notice No. 2 – Quality improvement focus of the ACQSC

In relation to the question on notice we provide the following statement:

The Australian residential aged care system has been subject to third-party accreditation by the now named Australian Aged Care Accreditation Agency (The Agency)) and its former named organisations for many years and this is mandated by the Aged Care Act. 1997 (Cth). There are four standard required to be met:

1. *Management Systems, staffing and organisational development (nine outcomes to be met).*
2. *Health and Personal Care (17 outcomes to be met).*
3. *Care Recipient Lifestyle (10 outcomes to be met).*
4. *Physical Environment and Safe Systems (eight outcomes to be met).*

As a framework the four standards are sufficient to comprehensively measure quality and safety of care. All the issues are with the prescriptive nature of the outcomes which do not adequately provide for individual choice, individual differences between residents and are not drafted so as to provide opportunities for valid and reliable measure.

It is our submission that the work Australian Aged Care Accreditation Agency needs to be directed away from the Inspectorial role in assessing achievement against the 44 outcomes contained within the four standards to one which fosters a partnering between service providers and the agency aimed at developing, promoting, educating and researching evidence-based strategies that will measure and report on quality and safety at an individual, service and national level.

This can be achieved by requiring the implementation of the care governance framework and associated measures to be reported on by each service provider. These data can then be aggregated as safety and performance indicators across residential and community aged care sectors. There would be an added advantage as the measurement of quality and safety in the aged care sector would be similar to that measured nationally in the standards of the Australian commission on quality and safety in healthcare. Whilst the measures would be markedly different, the approach to quality and safety would be similar.

The Social Care Institute of Excellence (2013) define social care governance as the process by which organisations ensure good service delivery and promote good outcomes for people who use services. This requirement is underpinned by regulation (HPSS Quality, Improvement and Regulation (NI) Order 2003) which defines the arrangements for improving the quality of provision measured through clinical and social care governance. This included the establishment of the Regulation and Quality Improvement Authority (RQIA) to inspect statutory bodies on their clinical and social care governance arrangements. It also included a statutory duty of quality for monitoring and improving services. This means each organisation has a legal responsibility for satisfying itself that the quality of care it provides meets a required standard.

A similar approach to this could see significant positive change in the aged care sector because of the statutory obligations that are imposed.

Contact OPAN

Thank you for the opportunity to provide input to the inquiry into the *Aged Care Quality and Safety Commission Bill 2018 and related Bill*. Should you have any further queries regarding the content of this submission, please do not hesitate to contact Craig Gear, OPAN CEO,