



**Carers Tasmania Submission on the  
Aged Care Bill 2024 (Provisions)**

**September 2024**



## About Carers Tasmania

Carers Tasmania is the Peak Body representing the more than 87,000 informal carers (hereafter carers) in the state.

Carers Tasmania's vision is for an Australia that values and supports carers.

Our mission is to work to improve the health, wellbeing, resilience and financial security of carers and to ensure that caring is a shared responsibility of family, community, and government.

Our values drive everything we think, say, and do.

- **Carers first** – we listen to what carers need, commit to their desired action plan, and deliver results that matter most to carers
- **Care in all we do** – we care for our work, about each other, about Tasmania's family and friend carers, and the bigger world we all share
- **Integrity always** – we are transparent, act ethically, own when things don't go to plan and do what we say we will
- **Quality every time** – we don't accept 'good enough' because carers deserve our very best every time
- **Speed that matters** – we are agile and don't put off what can be done today.

These values represent how we engage with and serve carers, how we work with each other, and our commitment to the broader community. Carers Tasmania encourages partnership with governments and health and community sectors to enhance service provision and improve conditions for family or friend carers through policy development, research and advocacy.

We acknowledge and support people of all genders, sexualities, cultural beliefs, and abilities and understand that carers in Tasmania, whilst sharing the common theme of caring for a family member or friend, are diverse individuals with varying beliefs, experiences, and identities. We value and respect the diversity of carers, their lived and living experiences, and recognise that carers are the experts in their own lives.

Carers Tasmania has offices in Moonah, Launceston and Burnie.

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## 1. Background

Carers Tasmania is the Peak Body representing the more than 87,000 informal carers within the state.

A carer is a person who provides unpaid care and support to a family member, or friend, with disability, mental ill health, a chronic or life-limiting condition, alcohol or other drug dependence, or who is frail or aged. Informal kinship carers who care for a child under the age of 18, because the parent is unable to, are also recognised as carers. Carers are predominantly family members, but may also be friends, neighbours, or colleagues. Informal carers are not to be confused with paid support workers who are often called 'carers', with the difference being that support workers are fully employed and remunerated with all the benefits of employment. On the contrary, informal carers perform their caring duties without remuneration, other than minimal carer payments and allowances from the Australian Government.

In addition to representing carers through the Peak Body activities, Carers Tasmania provides support to carers living in Tasmania through its service delivery arm, Care2Serve. The Australian Government Carer Gateway program is delivered through Care2Serve in Tasmania, as are other supports and services, such as the Tasmanian Government's Home and Community Care program.

The Carer Gateway program provides a range of services and supports for carers which are designed to build resilience, increase wellbeing, improve quality of life, and sustain carers to effectively continue their caring roles. The available supports include the provision of information, advice and referrals, holistic identification of carer strengths and needs through a carer support planning process, professional counselling, peer support, and coaching which aims to support carers in achieving specific goals.

Care2Serve, through the Carer Gateway, has capacity to fund certain instances of planned, practical support services such as in-home respite, personal care, domestic assistance, and meal preparation. Care2Serve may also fund items such as laptops to assist carers who are studying or trying to enter the workforce. Care2Serve also coordinates the provision of emergency support during instances where a carer may be unable to provide the care that they usually do, resulting from unexpected illness or injury of the carer.

## 2. Introduction

Carers Tasmania thanks the Australian Senate Standing Committee on Community Affairs for the opportunity to provide feedback on the Aged Care Bill 2024 (Provisions).<sup>1</sup> This is a significant reform initiative. Throughout this response, we refer to this as the 'Bill', prior to its passage of an Act.

Carers Tasmania believes that once enacted, the new *Aged Care Act* will play a significant role in ensuring that older Australian's and their carers have safe and equitable access to the supports they need. It is pleasing to observe that piece of legislation will take the form of a Rights Based Act, noting that this was the recommendation of the Aged Care Royal Commission into Aged Care Quality and Safety.<sup>2</sup>

Although it is positive to see continued progress on this Bill, Carers Tasmania would like to express several concerns and highlight some previous suggestions that were recommended in our February 2024 response to the Aged Care Bill 2023 Exposure Draft<sup>3</sup>, but not addressed or reflected in the current version of this Bill.

Unfortunately, criminal penalties for the serious harm and neglect of older people within aged care services have been omitted from the legislation. Clarity and reassurance is required to ensure that there will be sufficient protections in place for older people, with appropriate consequences for those who do the wrong thing. Addressing this concern is a matter of extreme importance.

## 3. Summary of Feedback on the Aged Care Bill 2024 (Provisions)

### Consistent language around carer recognition

Carers Tasmania's previous response on the Aged Care Bill Exposure Draft<sup>4</sup> stated that the Act must better recognise and support carers, to enable them to provide the best care possible and maintain their own wellbeing. It is pleasing that carers have been defined within the Bill. However, for consistency, we suggest this definition aligns with and refers to the Commonwealth *Carer Recognition Act 2010*.<sup>5</sup> This will help ensure consistent language across various pieces of Commonwealth Legislation, associated documents, policy and programs when referring to carers.

The definition of a carer, as stated within the Bill, is not clear and does not align with the Commonwealth *Carer Recognition Act 2010* definition. Given that aged care services are funded by the Australian Government, the Commonwealth *Carer Recognition Act* carer definition must be used for consistency to ensure clarity about who carers are. We suggest that within the definition section of the legislation, that carer be defined in alignment with the Commonwealth *Carer Recognition Act 2010* as follows:

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<sup>11</sup> The Parliament of the Commonwealth of Australia. (2024). Aged Care Bill 2024. [24104b01.PDF;fileType=application/pdf \(aph.gov.au\)](#)

<sup>2</sup> Royal Commission into Aged Care Quality and Safety Final Report. (2021). [Final Report | Royal Commissions](#)

<sup>3</sup> Carers Tasmania. (2024). Carers Tasmania Submission on the Aged Care Bill Exposure Draft. [Carers-Tasmania-Submission-on-the-Aged-Care-Bill-Exposure-Draft-1.pdf \(carerstas.org\)](#)

<sup>4</sup> [Ibid.](#)

<sup>5</sup> Carer Recognition Act 2010. (Cth). Available from: <https://www.legislation.gov.au/C2010A00123/asmade/text>

*“A **carer** is an individual who provides personal care, support and assistance to another individual who needs it because that other individual:*

- (a) has a disability; or*
- (b) has a medical condition (including a terminal or chronic illness); or*
- (c) has a mental illness; or*
- (d) is frail and aged.”*

In addition, to provide a reference point for further information, the Act must also explicitly refer to the Commonwealth *Carer Recognition Act of 2010*.<sup>6</sup>

## Legislative review timeline

The current Bill, in Section 601, refers to the review provisions of the legislation.

*“(1) The Minister must cause an independent review of the operation of this Act to be conducted within 6 months after the fifth anniversary of the commencement of this Act.*

*(2) The persons who conduct the review must give the Minister a 6 written report of the review.*

*(3) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.”<sup>7</sup>*

In our submission on the Aged Care Bill Exposure Draft,<sup>8</sup> Carers Tasmania highlighted that a review must occur far sooner than after a five-year period, so that older people and their carers can provide timely feedback on what is working well and what may need amending. This will help ensure that services are high-quality and safe. Waiting for five years before undertaking a review of such important legislation could mean that any unintended detrimental impacts to older Australians and their carers because of the new Act persist longer than necessary. The current Bill has not taken this feedback on board. Carers Tasmania urges that a shorter review date be implemented in the new Act.

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<sup>6</sup> Carer Recognition Act 2010. (Cth). Available from: <https://www.legislation.gov.au/C2010A00123/asmade/text>

<sup>7</sup> The Parliament of the Commonwealth of Australia. (2024). Aged Care Bill 2024.

[24104b01.PDF;fileType=application/pdf \(aph.gov.au\)](#)

<sup>8</sup> Carers Tasmania. (2024). Carers Tasmania Submission on the Aged Care Bill Exposure Draft. [Carers-Tasmania-Submission-on-the-Aged-Care-Bill-Exposure-Draft-1.pdf \(carerstas.org\)](#)

## Human rights, wellbeing, and choice and control

In our Submission on the Exposure Draft, Carers Tasmania noted that it was pleasing to observe a focus on the provision of high-quality care and upholding choice and control.<sup>9</sup> We are pleased to see that the Bill appears to have upheld this approach.

Further, our previous submission reinforced the need to ensure that the workforce is supported, skilled, and available to ensure needs can be met. We reinforce the need for investment, particularly with regards to delivering and upholding the following statement from Section Five of the Bill:

*“(iii) ensure equitable access to, and flexible delivery of, funded aged care services that put older people first and take into account the needs of individuals, regardless of their location, background and life experience.”*<sup>10</sup>

## Suggested amendments to the definitions

Carers Tasmania provided feedback in the submission on the Exposure Draft regarding the need to recognise and include serious psychosocial distress within the definition of serious illness.<sup>11</sup> Unfortunately, the current Bill has not included this suggestion, and the definition of serious injury or illness of an individual remains as follows:

Section 7 States:

*“Serious injury or illness of an individual means an injury or illness requiring the individual to have:*

*(a) immediate treatment for:*

- (i) the amputation of any part of the individual’s body; or*
- (ii) a serious head injury; or*
- (iii) a serious eye injury; or*
- (iv) a serious burn; or*
- (v) the separation of the individual’s skin from an underlying tissue (such as degloving or scalping); or*
- (vi) a spinal injury; or*
- (vii) the loss of a bodily function; or*
- (viii) serious lacerations; or*

*(b) medical treatment within 48 hours of exposure to a substance; and includes any other injury or illness prescribed by the rules but does not include an illness or injury of a kind prescribed by the rules.”*<sup>12</sup>

Given the significance of psychosocial injury, Carers Tasmania reinforces the need to include serious psychological distress within this definition.

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<sup>9</sup> Ibid.

<sup>10</sup> The Parliament of the Commonwealth of Australia. (2024). Aged Care Bill 2024. [24104b01.PDF:fileType=application/pdf \(aph.gov.au\)](#)

<sup>11</sup> Carers Tasmania. (2024). Carers Tasmania Submission on the Aged Care Bill Exposure Draft. [Carers-Tasmania-Submission-on-the-Aged-Care-Bill-Exposure-Draft-1.pdf \(carerstas.org\)](#)

<sup>12</sup> The Parliament of the Commonwealth of Australia. (2024). Aged Care Bill 2024. [24104b01.PDF:fileType=application/pdf \(aph.gov.au\)](#)

## Supporters

It appears that within the Bill, feedback has been taken on board about the complexities of having both supporters and representatives, and restrictions around the rules and responsibilities of each role. Carers Tasmania reinforces the need for accessible information, guidance, and support to be provided to carers who wish to be, or are supporters, so they can understand the processes, their responsibilities, and supported decision-making processes.

## Advocacy, information, and navigation services

As previously highlighted in our response on the Exposure Draft, the Act must consider mechanisms to ensure that older people and their carers have access to the information they require about processes, payments, supports, and how to make a complaint. The Act should legislate that older people and their carers have the right to access these supports in a way that meets their needs. Further, the Australian Government must commit to ensuring these services are funded, accessible and available.

Referring to our response on the Exposure Draft, Carers Tasmania stated:

*“The Act must include provisions to ensure that professional independent advocacy, information, and system navigation services, for older people and their carers remain functional and funded to ensure accessibility. Legislation must safeguard the continuation of these important supports. As such, the Act must specify the continued funding for the National Aged Care Advocacy Program, along with sufficient funding for information and navigation supports. These services are particularly valuable in communities where there are challenges with literacy and digital literacy, and in marginalised or diverse communities.”<sup>13</sup>*

Importantly, not everyone in a caring role necessarily has the skills to navigate the relevant paperwork, processes, and legislation. Therefore, these supports must extend to assist carers of people accessing aged care supports. The *Aged Care Act 1997(Cth)*,<sup>14</sup> includes provisions for sustainability of the National Aged Care Advocacy Program.

Section Five of the Bill States:

*“(f) provide and support education and advocacy arrangements that can assist individuals accessing funded aged care services to understand their rights, make decisions and provide feedback on the delivery of those services without reprisal.”<sup>15</sup>*

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<sup>13</sup> Carers Tasmania. (2024). Carers Tasmania Submission on the Aged Care Bill Exposure Draft. [Carers-Tasmania-Submission-on-the-Aged-Care-Bill-Exposure-Draft-1.pdf \(carerstas.org\)](#)

<sup>14</sup> Commonwealth of Australia. (1997). Aged Care Act. [Federal Register of Legislation - Aged Care Act 1997](#)

<sup>15</sup> The Parliament of the Commonwealth of Australia. (2024). Aged Care Bill 2024. [24104b01.PDF;fileType=application/pdf \(aph.gov.au\)](#)



However, it does not state that sustainable funding must be provided for this matter, as it does regarding the delivery of funded aged care services in Section Five (e). The Bill also does not refer to extending this support to carers, who are often the informal advocates supporting the older people they care for. Carers Tasmania suggests that Section Five, item (f) be amended to specifically state:

‘Provide and support, through sustainable funding, education and advocacy arrangements that can assist individuals accessing funded aged care services and their carers, to understand their rights, make decisions and provide feedback on the delivery of those services without reprisal.’

#### 4. Conclusion

Carers Tasmania encourages the Committee to consider how this piece of legislation can better recognise, include, and support the carers of older Australians accessing aged care supports. You can find more information in our prior submission on the Aged Care Bill Exposure Draft.<sup>16</sup>

Carers Tasmania thanks the Senate Standing Committee on Community Affairs for the opportunity to provide feedback on the Aged Care Bill 2024 (Provisions). We trust the Committee will carefully consider our feedback to help ensure the Act will effectively provide older Australian’s and their carers safe, timely, and equitable access to the supports they require.

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<sup>16</sup> Carers Tasmania. (2024). Carers Tasmania Submission on the Aged Care Bill Exposure Draft. [Carers-Tasmania-Submission-on-the-Aged-Care-Bill-Exposure-Draft-1.pdf \(carerstas.org\)](#)