



# Memo

**To:** Committee Secretary  
Senate Standing Committees on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Submission uploaded on APH website

**From:** Sam Pandya, President, Law Institute of Victoria

**Subject:** Aged Care Legislation (Financial Transparency) Bill 2020

**Date:** 27 July 2020

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## **Introduction:**

The Law Institute of Victoria ('LIV') welcomes the opportunity to provide comments to the Senate Standing Community on Community Affairs on the Aged Care Legislation (Financial Transparency) Bill 2020 ('the Bill').

## **The LIV's position:**

We note that the Bill amends the *Aged Care Act 1997* to require residential aged care providers to give an annual financial transparency report to the Aged Care Quality and Safety Commissioner. The report is then publicised. The Explanatory Memorandum to the Bill notes that this will include information on a provider's income and how much they pay to parent bodies, as well as their spending on food, medication, staff, training, accommodation and administration.

The LIV supports the Bill, drawing on comments made to the Law Council of Australia ('LCA') on 27 April 2020 in regard to the financial transparency of the Aged Care Funding Instrument (see *attached*). The LIV is satisfied that the Bill would help remedy the community concern expressed in the attached letter.

Please note that this letter was sent in addition to our submission to the LCA on the Royal Commission into Aged Care Quality and Safety, which can be read [here](#).

**Conclusion:**

Should you have any queries about this memo, please contact Michelle Luarte, Lawyer to the Elder Law Committee ( [REDACTED] ) or Alexander Laurence, Paralegal to the Elder Law Committee ( [REDACTED] )

Kind regards,

Sam Pandya  
**President**  
Law Institute of Victoria



# Memo

**To:** Pauline Wright, President, Law Council of Australia  
**From:** Sam Pandya, President, Law Institute of Victoria  
**Subject:** Royal Commission into Aged Care Quality and Safety Follow-Up  
**Date:** 27 April 2020

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## **Introduction:**

The Law Institute of Victoria ('LIV') wishes to provide additional comments to the Law Council of Australia ('LCA') on the Royal Commission into Aged Care Quality and Safety. This follows our initial correspondence dated 6 September 2019. These comments concern the transparency of funds distributed through the Aged Care Funding Instrument ('ACFI').

## **Funding transparency:**

The ACFI is a tool, used and administered by the Department of Health, to allocate funding based on the needs of aged care residents<sup>1</sup> It determines funding based on the day-to-day needs of each individual resident. Then, subsidies are paid to the residential aged care home that is providing the daily care<sup>2</sup>. LIV members report community concern that:

- the use of the allocated funding is unsupervised,
- that there is insufficient accountability in the way the funding is used, and
- that the ACFI is not intensively or routinely audited.

Each year, there are two primary reports completed by providers. First, the audited General Purpose Financial Report. Second, the partially-audited Aged Care Financial Report ('ACFR'). The latter of these includes audited prudential requirements. These relate to the provider's financial viability, in addition to records of individual residents' Refundable Accommodation Deposits. The ACFR also includes unaudited financial

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<sup>1</sup> Royal Commission into Aged Care Quality and Safety, *Interim Report: Neglect*, vol.1 (October 2019), 58

<sup>2</sup> Ibid.

reports for residential aged care, which are presented at the provider, rather than site level. For in-home care, these unaudited reports are presented at the service (region) level.

The LIV submits that all aged care providers, who receive ACFI funds, should provide the Department of Health with regular and detailed accounts as to how the funds are spent. To this end, the LIV recommends that residential aged care financial data in the ACFR be provided at the **site** level, rather than at the **global provider** level. This would better identify how government, and other streams of funding, have been utilised. The LIV also recommends that this data be audited. LIV members who work closely with providers note that this would not impose a significant additional burden on the providers, given an external financial audit is conducted each year around the same time.

**Conclusion:**

Should you have any queries about this memo, please contact Michelle Luarte, Lawyer to the Elder Law Committee [REDACTED] or Alexander Laurence, Paralegal to the Elder Law Committee [REDACTED]  
[REDACTED]

Kind regards,

Sam Pandya  
**President**  
Law Institute of Victoria