



Aged Rights Advocacy Services (SA) Inc. welcomes the opportunity to provide a submission to the Senate Community Affairs Legislation Committee Inquiry into the Aged Care and Other Legislation Amendment (Royal Commission Response No 2) Bill 2021.

About Aged Rights Advocacy Service (SA) Inc.

(ARAS) is a state-wide, not-for-profit, independent, community-based organisation that provides information, education and advocacy support for older people across South Australia since 1990.¹ Older people who use community or residential aged care services, people who live in retirement villages, and older people who are experiencing, or who are at risk of abuse from family or friends, can use an ARAS advocate, at no cost, to assist them to address their concerns. ARAS also has specialist Aboriginal Advocates to provide culturally appropriate support and hosts an annual intergenerational mentoring camp in regional South Australia. Additionally, ARAS is participating in the Aged Care Navigators trial in North West country regions of South Australia. The Aged Care Navigators support older people to navigate the aged care system and access services.

ARAS hosted the annual South Australian World Elder Abuse Awareness Day (WEAAD) Conference online again in 2021 taking into account the Covid19 pandemic. We received 480 registrants including from overseas and interstate as well as South Australians with feedback that the online event had allowed greater access to the rural and remote registrants. WEAAD is supported by the United Nations and the World Health Organisation and is acknowledged on the 15th June, annually. The conference brings together policy makers, frontline workers covering the latest research and reviewing the progress that is occurring but ensuring that the message, abuse of any older person is unacceptable.²

An experienced volunteer Board of non-executive Directors and a small committed staff of 17.3 FTE support ARAS. In addition to supporting older people with individual advocacy support ARAS also provides information and education sessions about aged care rights, retirement village rights and broader human rights, contributing to community understanding and empowerment ensuring the voice of older people is heard on issues that matter to them.

ARAS is also one of the five founding members of Elder Abuse Action Australia (EAAA)³ funded by the Commonwealth Attorney General's Department, volunteering it's expertise and knowledge to support the development of EAAA as an organisation and the development of the national knowledge hub 'Compass'.⁴ Additionally, ARAS at a state level is a founding member of the Alliance for the Prevention of Elder Abuse.⁵

ARAS is the only South Australian member of Older Persons Advocacy Network (OPAN) who deliver the National Aged Care Advocacy Program (NACAP).⁶ ARAS is funded by OPAN, the Australian Government, SA Health, Office for Ageing Well and COTA.⁷

ARAS Service Delivery 20/2021 – Who we supported

¹ Aged Rights Advocacy Service (SA) Inc.: History: http://www.sa.agedrights.asn.au/about_us/history

² Aged Rights Advocacy Service (SA) Inc. See Annual Report 2019/2020: <https://www.sa.agedrights.asn.au/resources/publications>

³ Elder Abuse Action Australia (EAAA): <https://eaaa.org.au/welcome-to-elder-abuse-action-australia/>

⁴ Compass, Guiding Action on Elder Abuse: <https://compass.info/>

⁵ Alliance for the Prevention of Elder Abuse: <https://www.apea.org.au/>

⁶ Older Persons Advocacy Network: <https://opan.com.au/>

⁷ Aged Rights Advocacy Service (SA) Inc.: Annual Report: Aged Rights Advocacy (SA) Inc. See Annual Report 2019/2020: <https://www.sa.agedrights.asn.au/resources/publications>

Despite the challenges of Covid19 ARAS was nimble and able to pivot when faced by changing circumstances in order to continue to support older people.

Some Fast facts from 2020/2021 about ARAS service delivery:

- **4148 Individual Advocacy Cases and Information sessions**
- **512 Education sessions to:**
- **6123 participants**
- **44954 website page views**
- **6106 Contacts from the public**
- **2147 Subscribers to our news**

Additionally, we assisted 123 people to navigate the aged care system as part of the Navigators trial located in northern Adelaide region. Demand for individual Advocacy and Information has increased 26 percent from last year.

Submissions

In recent years, ARAS has made submissions to the Australian Law Reform Commission Inquiry into Elder Abuse⁸ (ALRC) as well as the South Australian Parliamentary Joint Committee on Matters Relating to Elder Abuse in regards to the financial abuse of older people.

ARAS has also supported older people to make submissions to the Royal Commission into Aged Care Quality and Safety as well as made submissions on behalf of ARAS.⁹ ARAS is also supportive of submissions made by EAAA and OPAN.

Additionally, ARAS has made submission to the Senate Standing Committee on Community Affairs on transparency and accountability matters related to aged care.

Aged Care and Other Legislation Amendment (Royal Commission Response No 2) Bill 2021.

ARAS is generally supportive of the proposed amendments and is supportive of the OPAN submission to this Inquiry, however makes the following specific additional points:

Registered Nurse Requirements

ARAS is supportive of the requirement to have at least one registered nurse onsite 24 hours/day. This is necessary as a **minimum** requirement due to the increased acuity levels of older people residing in residential aged care. ARAS remains concerned about the ability for this measure to be able to be actioned due to the significant shortage of aged care workforce and the competition between the acute health sector, disability and aged care sector to attract the appropriate skilled workforce.¹⁰ This shortage is becoming more apparent in regional, rural and remote locations and exacerbated by the Covid19 pandemic and the need for registered nurses to provide vaccinations and testing services during the pandemic.¹¹ ARAS suggests urgent action needs to be undertaken to ensure that aged care has a skilled workforce in the immediate, medium and long term.¹²

Restrictive Practices

ARAS remains concerned about the use of restrictive practices and protecting the rights of older people. We note the amended explanatory memorandum outlining jurisdictional issues with responsibility re consent

⁸ Australian Law Reform Commission: <https://www.alrc.gov.au/inquiry/elder-abuse-2/elder-abuse-submissions/>

⁹ Royal Commission into Aged Care Quality & Safety: Interim Report: <https://agedcare.royalcommission.gov.au/publications/interim-report>

¹⁰ CEDA, Duty of Care: Meeting the aged care workforce: <https://www.ceda.com.au/ResearchAndPolicies/Research/Health-Ageing/Duty-of-care-Meeting-the-aged-care-workforce-chall>

¹¹ See: <https://www.theguardian.com/australia-news/2021/sep/16/all-of-us-are-struggling-regional-australias-aged-care-homes-strain-to-stay-viable>; <https://kindredliving.com.au/wp-content/uploads/2021/08/G0023-Media-Statement-12Aug2021.pdf>

¹² See ARAS media release: <https://www.sa.agedrights.asn.au/resources/media-releases>

provisions related to restrictive practices and the seeking of limitations of liability for relying on the consent provisions in the Quality of Care Principles.¹³ It is concerning that such provisions are required and demonstrates significant gaps across jurisdictions which has been previously outlined by the Royal Commission into Aged Care Quality and Safety.¹⁴ ARAS would expect that any such provision limiting liability would be time limited and that jurisdictions move swiftly to ensure their citizen's rights and freedoms are upheld. Additionally, ARAS remains concerned that there should be independent oversight and authorisation process of behaviour support plans by a Senior Practitioner.¹⁵ To be clear, this is in addition to ensuring supported decision-making support processes are in place and appropriate education and resources are also in place. There is urgent attention to be paid across health, aged care and disability in terms of restrictive practices and ensuring Australia meets its obligations under international law.¹⁶ ARAS notes the potential developments in the disability sector and suggests that alignment between the aged care, disability and acute health sector is imperative.¹⁷

Conclusion

ARAS is generally supportive of the Bill and the proposed amendments to date but suggests any limiting of liability provisions related to restrictive practices should be time limited with sunset clauses and ensure Australia meets its human rights obligations.

Contact for more information about this submission:

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¹³ *Quality of Care Principles 2014*: <https://www.legislation.gov.au/Details/F2021C00685>

¹⁴ Royal Commission into Aged Care Quality & Safety, Background Paper No 4: <https://agedcare.royalcommission.gov.au/sites/default/files/2019-12/background-paper-4.pdf>

¹⁵ Ibid. See ACT for Senior Practitioner and Human Rights Framework. See also: <https://www.ndiscommission.gov.au/sites/default/files/documents/2020-11/regulated-restrictive-practice-guide-rp-2020.pdf>

¹⁶ Australian Law Reform Commission: <https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-alrc-report-124/8-restrictive-practices-2/the-use-of-restrictive-practices-in-australia/>

¹⁷ See NDIS Consultation: <https://www.ndis.gov.au/community/have-your-say/support-decision-making-consultation> and a summary of responses to Issues paper: <https://disability.royalcommission.gov.au/system/files/2021-04/Overview%20of%20responses%20to%20the%20Restrictive%20practices%20Issues%20paper.pdf>