

Additional Comments by the Australian Greens

The Aged Care Amendment (2008 Measures No. 2) Bill 2008

The Australian Greens support measures to ensure high standards in aged care and appreciate that the intent of the proposed amendments in this Bill is to improve standards. However, we are concerned that there are issues with the provisions of this Bill that are creating uncertainties for the sector and require further clarification.

Defining key personnel

On the widened definition of key personnel, the Australian Greens are concerned that in the case of not for profit providers, a large number of voluntary board members would be encompassed within the definition of key personnel. As the Bill is currently stands, there is ambiguity. The legislation should clearly define what groups of people are to be included **and** excluded from the definition of key personnel.

Recommendation: That the legislation provide a clear exclusion principle on the definition of key personnel.

ACAT assessments

The resource shortfall affecting ACAT teams was noted in several submissions to the inquiry. Although many of the concerns raised were beyond the scope of this legislation and this inquiry, they clearly require further investigation.

The Australian Greens concur with the move to reduce unnecessary ACAT assessments. In their evidence to the inquiry, aged care providers indicated that there are often disagreements between ACAT and ACFI assessments on the level of care needed by incoming residents. When this occurs, ACAT is required to return to the facility to re-assess the resident. The delay can be a lengthy one. Therefore, it has been argued that when the ACAT reassessment concurs with the ACFI assessment, the level of subsidy funding should be back dated to the date of admission as this reflects the level of care that the resident has received.

Recommendation: The higher level of subsidy should be paid from the date of admission rather than the date of the second ACAT assessment.

The reporting of missing residents to DOHA

In the case of a resident going missing, it is not clear what benefit is to be gained from the proposed requirement that DOHA be notified. Nor is it clear what action DOHA will be expected to take once

they have been notified that a person is missing. The Australian Greens note the concerns about the potential for the infantilising of residents of aged care facilities. As the Catholic Health Australia evidence highlighted, there may be an increased pressure placed on providers to increasingly restrict the movement of residents in the effort to avoid sanctions that might be imposed should a resident go missing.

In their initial evidence to the inquiry, the Department was unable to provide an assessment of the extra workload and operational procedures necessary to administer this requirement. The Australian Greens are concerned that this amendment will create a greater impost on the Department than has been planned for yet without necessarily adding any benefit to the well being of residents.

Recommendation: That this amendment be deleted or further clarified.

Overall comment on administrative burdens

Given the additional administrative burden arising from the amendments to the Bill, the Australian Greens concur with the evidence presented by aged care providers who have requested that, wherever possible, electronic communications be made available for providing up dated information to the Department of Health and Ageing.

Recommendation: That administrative reporting requirements be facilitated in the most cost efficient manner.

Consultation Processes

There is disagreement between the views of the Department of Health and Ageing and a number of aged care providers who gave evidence to the inquiry about the nature and extent of the consultative process surrounding these amendments. Several aged care providers commented that while some formal meetings took place whereby DOHA advised providers of proposed changes, there was no opportunity for providers to view the proposed amendments. Even now, in the absence of the aged care principles, some providers are still unsure as to the full operational requirements and impact of the proposed amendments.

Recommendation: That the Department of Health and Ageing improve their consultative processes.

Sanctions

It was clear from a number of submissions that aged care providers are concerned that sanctions are increasingly viewed by the Department as the means through which to address any problems in the sector. This was contrasted with the preferred approach whereby consultations take place between providers and the Department with a view to making improvements that benefit residents. Of

particular concern are the broadened powers of the Department to take into account the needs of future residents and future incidents of non compliance.

The Australian Greens remain concerned that provisions relating to possible future compliance remain vague and ambiguous and are thus open to subjective interpretation and likely to result in uneven application. It is not at all clear how the Secretary can make decisions and impose sanctions based on an event that has not yet occurred. We do not consider that an emphasis on a punitive approach, particularly where it is somehow intended to deter events that have not yet occurred, is likely to be productive, and suggest that a cooperative approach geared towards enabling and incentivising service delivery would be more conducive to improved outcomes.

The example given by the Department for the need for this amendment was to protect bonds in the future. We believe that rather than taking this broad, ill-defined approach, a more specific amendment that specifically deals with bonds would be better.

Recommendation: That compliance measures intended to address future non-compliance be abandoned and amendments for bond protection be developed.

Conclusion

These amendments seek to improve standards and compliance in aged care under the current model. Many submissions raised the need for broader reform in the aged care sector to address the long term sustainability issues of the sector. This is also reflected in recent report by the Productivity Commission¹ and the Grant Thornton Survey.² The Greens look forward to the inquiry by the Standing Committee of Finance and Public Administration into the aged care sector.



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¹ Productivity Commission 2008, *Trends in Aged Care Services: Some implications*, Productivity Commission Research Paper, Canberra.

² Grant Thornton 2008, *Aged Care Survey 2008: Summary findings, October 2008*, available at www.grantthornton.com.au