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SENATE

STANDING COMMITTEE ON COMMUNITY AFFAIRS

Reference: Aged Care Amendment (Residential Care) Bill 2006

WEDNESDAY, 4 OCTOBER 2006

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SENATE STANDING COMMITTEE ON

COMMUNITY AFFAIRS

Wednesday, 4 October 2006

Members: Senator Humphries *(Chair)*, Senator Moore *(Deputy Chair)*, Senators Adams, Allison, Carol Brown, Fierravanti-Wells, Patterson and Polley

Substitute members: Senator Barnett for Senator Fierravanti-Wells

Participating members: Senators Barnett, Bartlett, Bernardi, Mark Bishop, Boswell, Bob Brown, George Campbell, Carr, Chapman, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Fielding, Forshaw, Heffernan, Hogg, Hurley, Hutchins, Joyce, Kirk, Lightfoot, Ludwig, Lundy, Marshall, Mason, McEwen, McGauran, McLucas, Milne, Nash, Nettle, O'Brien, Parry, Payne, Robert Ray, Siewert, Stephens, Stott Despoja, Watson, Webber, Wong and Wortley

Senators in attendance: Senators Adams, Humphries, McLucas and Moore

Terms of reference for the inquiry:

Aged Care Amendment (Residential Care) Bill 2006

WITNESSES

Committee met at 1.55 pm

BRADY, Mr Peter Graeme, National Policy Manager, National Seniors Association

O'NEILL, Mr Michael John, Chief Executive Officer, National Seniors Association

CHAIR (Senator Humphries)—We will now commence our hearing into the Aged Care Amendment (Residential Care) Bill 2006. We only have a very short period of time in which to conduct this hearing. We have to be out of the building by 2.30 pm for an evacuation exercise so we might get straight into things. I think you have probably both had some experience with parliamentary privilege and understand how that works. We have your submission before us. It is fairly straightforward and appears to be fairly supportive of what the legislation is proposing. Can I ask you to summarise what you would see as the main issues facing us and to make any other comments you want to make about the legislation that we are considering.

Mr O'Neill—I am happy to be brief in that regard. The National Seniors Association is an organisation based on membership, with 280,000 members Australia-wide. By way of background, our involvement with this is that David Deans, my predecessor as of last Friday, was involved in providing advice in the development of this process, so clearly we have had some influence to date. We note that this is essentially about the recommendations coming out of the Hogan review and the two key issues of assets testing for entry into permanent residential care and the delegation of additional powers.

Being very brief, we support both recommendations. Our view of the first is that our membership would be overwhelmingly supportive of it. There will clearly be, as with any issue in the community, some exceptions to that, but our view is that it will overwhelmingly elicit support. The second we believe would have almost unanimous support from the membership. So in terms of being short and sharp, that is where we are at on the issues.

CHAIR—I appreciate that. I have just been advised that you were actually prevented from getting in here by an overzealous attendant, in which case I apologise for making slight of your timekeeping. I am sorry about that and we will have to find out how that occurred. However, fortunately your comments to the committee seem to be quite succinct, so we probably have not been greatly disadvantaged by that. I have no questions.

Senator McLUCAS—Thank you for the submission. I just have one issue and that is those people who are currently in residential aged care and who will then move. Did you have a look at the impact on people who will move from one facility to another facility and how they will be caught up in the legislation? It is a very small group of people, I acknowledge that, but did you think about it?

Mr O'Neill—I will ask my colleague to deal with that.

Mr Brady—It did come up, but I think in the discussions with the broader membership the view was that the equity that will come out of the legislative changes would probably more than outweigh some of those issues that may have been in that regard.

Senator McLUCAS—The other issue is that this change will need to be promulgated. Has the department spoken to the National Seniors Association about their involvement in sending out the message?

Mr O'Neill—There have been some initial discussions about information dissemination and we are happy to cooperate in that regard.

CHAIR—I am not sure if you are aware of what involvement the aged-care sector—the providers—might have had in the process of formulating these changes, but I assume that if there was an exercise in advising those providers of the changes as they affect people who make applications to enter residential facilities that National Seniors has mechanisms and networks to exploit to be able to provide information to people about those changes.

Mr O'Neill—Certainly. We have our own communication system that would ensure that information went to all 300,000 of our members and a broader electronic system that hopefully would ensure it gets to a wider sector as well. Clearly if it is going to work, it needs to get out there, and we are only too happy to participate and assist in that process.

Mr Brady—We have also had a relatively close consultation with the Aged Care Association with regard to the provider's point of view as well and what implications there might be.

CHAIR—I think you have done your business very well despite the brevity of the time you have spent with us. I thank you for the submission and your appearance today, and your valiant struggle to get through the minders around us to reach us to provide the assistance that you have to the committee.

[2.02 pm]

DELLAR, Mr Stephen, Assistant Secretary, Residential Program Management Branch, Ageing and Aged Care Division, Department of Health and Ageing

STUART, Mr Andrew Jonathan, First Assistant Secretary, Ageing and Aged Care Division, Department of Health and Ageing

CHAIR—I welcome you to the committee hearing today. I do not think I need to tell you about parliamentary privilege and the protection of witnesses—I think you know more about it than most of us—or remind you of the limitations on the Senate committee's capacity to ask you questions about matters of policy. We have a submission from you on the changes, on the legislation. Do you want to make an opening statement about the submission or the legislation?

Mr Stuart—Not an opening statement, thank you, Chairman, but we would like to table a correction to the explanatory memorandum. Senator McLucas's proofreading skills are obviously better than mine and she found a heading problem in one of our tables in the explanatory memorandum. The numbers are okay but there is a problem with the labelling of some of the years in a particular table and we would like to table a correction now if we could do so.

CHAIR—Thank you.

Senator McLUCAS—For accuracy, I should say it was my staff member.

CHAIR—A gold star to somebody for checking that out. In your submission you describe how the new arrangements will work and the new testing that will be required for a person to qualify for some kind of concession and you say:

People who qualify for government assistance with their residential aged care accommodation costs ... must receive an Australian Government means-tested pension, must either have not owned a home in the past two years or have a home that is protected and have less than (currently) $32,000 in assets.

Can you please describe to us what a protected home is?

Mr Stuart—That goes to the conditions that apply when a spouse remains living in the home or under other circumstances. I will ask Stephen Dellar to elaborate.

Mr Dellar—The other situation that could create a protected home is where there is a carer in receipt of an income support payment or a carer eligible for an income support payment. The spouse can continue to live in the house, and the house is protected, under those circumstances.

CHAIR—If a party in a protected house were to sell the house, does the asset created by that sale—that is, the sum of money in the hand—then come into the formula in some way once that other party is already a resident of an aged-care facility?

Mr Dellar—The important point about an asset test for residential aged care is that it actually occurs on entry. If, after entry, a person's circumstances change, the issue of the person's bond or accommodation charge will not arise. The only situation where it could arise

is if the person leaves the home and goes to another home. Then the asset test could potentially operate again and create a new result for that person.

CHAIR—So, if the resident of a home were to win the lottery or whatever, that would not affect their liability with respect to accommodation charge or bond at all?

Mr Dellar—That will not affect the accommodation charge or bond; that is correct.

CHAIR—All right. Thank you for that. Senator McLucas?

Senator McLUCAS—The issue I really want to go to is where a resident moves from one facility to another. The measure identifies—it is on page 2 of your submission—that 'people already in care or people entering or moving between residential aged care homes up to and including 31 December 2006 will not be affected' but, if they move after that, from 1 January 2007 their changed assets will be included in a subsequent assessment. Could you explain why you have included that measure?

Mr Stuart—Just to clarify, Senator: is that under the heading of 'gifts'—is that under the gifting arrangements?

Senator McLUCAS—Yes.

Mr Dellar—It follows on from the question Senator Humphries asked me, which is essentially: when do we do an assets test? It is only at the point when you are moving into a home for the first time or moving into another home. While you remain in a home, your asset situation will not alter. However, if you move to a new home and you are receiving a concessional or assisted supplement from the department then your assets are retested and that could lead to a change. To use Senator Humphries's illustration, if there was a house that was protected but that is no longer protected, that might change a person's eligibility for concessional status.

Senator McLUCAS—Why don't we just keep those people out of the equation—the people who may move homes after 1 January next year?

Mr Stuart—In its current shape, the Aged Care Act talks about people moving into a home and the application then of an assets test. That is an existing arrangement. That is happening on the one hand and then, on the other hand, we have a lining-up of the way we measure assets with social security law, and this is essentially a product of those two areas of law operating together.

Mr Dellar—Senator, the assets test is not changing; it is just the way we do the assets test that is changing.

Senator McLUCAS—So, currently, if a person moves from one aged-care facility to another, we apply the assets test?

Mr Stuart—That is right.

Senator McLUCAS—So we are just continuing with that?

Mr Stuart—That is right. Of course, at the moment, circumstances could change for an individual and that would then be reflected in the current assets test. This is simply another kind of change that might occur.

Senator McLUCAS—So, if a person who is currently in residential aged care makes a gift worth over the $10,000 per year or $35,000 over five years and then moves facilities in February next year, their reassessment will include that gift?

Mr Dellar—Potentially, yes. Sorry—yes; I do not need to qualify that.

Senator McLUCAS—They will. But if they move on 26 December that gift will not be included.

Mr Dellar—That is correct.

Senator McLUCAS—Did you give thought to excluding that small group—it will only be a very small group of people—from the application of the gifting rule, simply because they will be treated differently before or after New Year's Day next year?

Mr Dellar—Just to clarify, existing policy is, when people are moving from one home to another and their material circumstances have changed, to take that into account in the assets test on moving into a new home. That could include, for example, circumstances in which the home had become no longer protected due to the departure of a surviving spouse or other changes in circumstances. Essentially this arrangement mirrors existing practice in relation to changes that occur in between arrival in an aged-care home and possible movement into another one.

Senator McLUCAS—I understand that. There will be a small group of people who, when they went into residential aged care five years ago, were under the apprehension that any gift was not going to be included in their assets test and made financial decisions with that knowledge. If they happen to move from one facility to another after 1 January next year, their understanding of how the assets test operates will probably be incorrect and they may potentially make decisions without the knowledge of the impact on their financial arrangements. That is only going to be a small group of people. I wondered whether you had thought about whether they should be exempted.

Mr Dellar—What I am saying is that if we did make such an exemption then there would be an anomaly with other existing arrangements where circumstances change.

Senator McLUCAS—I acknowledge that. Do we know how many people we expect to move who may be affected by that change?

Mr Dellar—I do not have those figures. The number of people who do move after first entry into care is reasonably small. Generally speaking, if they are going to move, they tend to do it in the first few months, and they are often people who moved into home A waiting for a vacancy in home B.

Senator McLUCAS—What about people who move from low-care facilities to high-care facilities? I dare say that is a fairly large proportion.

Mr Dellar—Yes, but that is far less frequent than it used to be because of the ageing in place provisions. In fact, most people now can age in place.

Mr Stuart—I am sure that we could provide data about people moving but I am also very sure we could not provide data about people moving and gifting after the rules come into place.

Senator McLUCAS—I acknowledge it is a very small number. I am not asking you to do that work. Thank you for the amended savings measures in the EM. You talk about the need to promulgate this information in the community and talk about *News for Seniors* and press advertising. What is the communications program plan?

Mr Dellar—I am advised that the budget is $140,000.

Senator McLUCAS—If you could provide me with a copy of the communications strategy on notice, that would be helpful.

Mr Stuart—That would obviously be the communications strategy in addition to the budget announcements and the budget material.

Senator McLUCAS—Absolutely.

Mr Stuart—We are very happy to take that on notice.

Senator McLUCAS—Thank you. The final question relates to the delegated role that the ACAT teams have. I think, as National Seniors said, everyone in the world will welcome this measure; it is very sensible. What are the guidelines that you will give the person with the delegated authority to operate within, or do you say, 'Here's your delegated authority. Use it with common sense'?

Mr Dellar—We would never do that.

Senator McLUCAS—That may be good, actually.

Mr Dellar—The department has a set of guidelines that are issued to aged care assessment teams. It supports those guidelines with periodic training and a national committee—comprising ourselves and the state and territory governments—that deals with issues of policy and issues of practice in relation to aged care assessment teams. They will be amended. The act change gives the authority to the secretary to give a delegation. There is an action after the act has changed, but when that occurs that will, of course, be accompanied by instructions to the teams and by an amendment to the guidelines that they have.

Senator McLUCAS—The point I am getting at is what are the instructions that are going to be given? On what basis can someone extend a care recipient's number of days of respite?

Mr Dellar—I can only talk about that generally, but it is about giving support to people whose circumstances require that support. Generally speaking, it is interpreted reasonably generously if the respite care has been given in the first place and the person needing care is particularly difficult to care for or has a particular problem, or the carer has a problem, such as sickness or illness of some kind or another. It would be difficult to be more prescriptive than that.

Senator McLUCAS—But you do give the delegated person scope?

Mr Dellar—We certainly do and we do expect that the carer of the person who receives the respite care does need respite.

Senator McLUCAS—I was just interested to know on what basis. You have explained about circumstances such as the carer being ill, the person in respite care being difficult to care for or the caring situation not able to be satisfactory. I am interested in the language you give that delegated individual and what scope you have.

Mr Dellar—We should be able to provide you with further advice about that down the track. I think it is still in process.

Senator McLUCAS—That is fine. Thank you.

Senator ADAMS—Coming from a rural area, I am absolutely delighted about the respite care being extended. Sometimes you have a person going into a home and they are getting settled but not quite there, and the carer is absolutely desperate—not able to look after them and with very little support. I think that this is a very wise and practical solution.

CHAIR—I do not think that there are many bills where we have such consensus as we seem to do on this one. I thank both of you for your time here today, for the submission and for the work that has obviously gone into getting this approach fairly right. We appreciate that effort.

That being the conclusion of the inquiry into the Aged Care Amendment (Residential Care) Bill 2006, I thank the senators who have been involved, our witnesses, Hansard—for its assistance here and elsewhere—and the secretariat of the committee. The committee stands adjourned until tomorrow at 9 am in Perth.

Committee adjourned at 2.18 pm