UTS Ageing Research Collaborative (UARC)

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Aged Care Taskforce consultation about funding principles: UARC response

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1 Background

In June 2023, the Minister for Aged Care established an Aged Care Taskforce (the Taskforce) to:

- review the funding arrangements for aged care
- develop options for a system that is fair and equitable for everyone in Australia
- build on the recommendations of the Royal Commission into Aged Care Quality and Safety.[1]

The Taskforce is consulting on a draft of aged care funding principles, which will inform its work. The Taskforce has also issued a set of questions associated with the draft principles [2]

The University of Technology Sydney Ageing Research Collaborative (UARC) appreciates the opportunity to make the following submission to the Aged Care Taskforce in response to the matters raised in its request for consultation. UARC has responded to each of the draft principles and associated questions. As appropriate, it has also offered an alternative wording for (some of) the draft principles.

[1] https://www.pmc.gov.au/domestic-policy/aged-care-taskforce
[2] https://agedcareengagement.health.gov.au/taskforce

2 Alignment of reform initiatives

The Taskforce is undertaking its review and development of funding options at a time when the Government is undertaking reform in related areas of the aged care system. Two particularly relevant coincident issues are the development of new primary legislation (a new Aged Care Act) by the Department of Health and Aged Care (the Department) and the development of pricing arrangements for aged care services by the Independent Health and Aged Care Pricing Authority (the Pricing Authority).

The Taskforce is to be commended for identifying the need to establish a set of principles to guide its deliberations. It would be highly desirable for the underpinnings of these principles to align with the work of the Department and the Pricing Authority. Otherwise, UARC considers that there is the potential for a degree of tension to emerge between the different directions that these reforms could take.

By way of a simple example, the Terms of Reference of the Taskforce refer to aged care funding being: *"affordable for the Commonwealth with arrangements that balance equity and fairness between older and working-aged Australians"*. The Taskforce is accordingly proposing a principle that differentiates between care services which should be the focus of public funding, and accommodation and everyday living costs which should be the focus of personal contributions. However, the Department's consultation paper on the Foundations of the new Aged Care Act instead takes a rights-based approach for older people without evident consideration of the rights of people who pay taxes.[3]

In summary, UARC considers that there is a need to align the directions of the various reforms currently underway. While responsibility for this alignment ultimately rests with the Government, UARC supports the Taskforce's thoughtful understanding of how the aged care system should achieve equity, fairness and sustainability.

[3] https://agedcareengagement.health.gov.au/engagement/foundations-of-the-new-aged-care-act

3 Commentary on the draft principles

Draft principle 1: The aged care system should enable and encourage participants to remain in their home for as long as they wish and can do so.

Q.1 Is Australia's aged care system and how you pay for aged care easy to understand? If not, why not?

In response to Question 1, Australia's aged care system has undergone a decade of reform and is now less fragmented and with fewer conflicting eligibility criteria across different programs than previously. Further, there is more consumer choice and control, such as in the Home Care Package Program, which has assigned packages to care recipients since 2017. Consumer control will be further enhanced when, as of July 2024, they will be assigned a residential care place and therefore have greater control over their choice of aged care home provider and over the accommodation setting in which their care is delivered. Complementary to these changes, the My Aged Care website continues to improve, including the recent addition of Star Ratings, which provides comparable quality information that can guide older people and their families in choosing care services.

However, outstanding matters which continue to make the system and personal contribution responsibilities difficult to understand include:

- A lack of a simple statement of the objectives of the aged care system, including the respective obligations of government (and taxpayers), providers and older people who need to access the system. Failure to clarify the objectives can result in an unwarranted and unsustainable expectation that older people are generally entitled to a wide range of services that are fully publicly funded through the Government. UARC is encouraging the Department to rectify this situation through appropriate drafting of the new Aged Care Act.
- The existence of two major home-based care and support programs (HCP, CHSP), each with their own assessment organisations, eligibility criteria, range of services and consumer contribution obligations (which are not enforced). The long-awaited Support at Home program (now deferred until at least July 2025) will reduce some of the current confusion.
- A lack of easy-to-access information on MyAgedCare about the true availability of aged care services. For example, while the waiting times for people to be assigned HCPs have steadily declined (now 1-3 months), they may still struggle to find suitable providers with service offerings appropriate to their needs, in the locations where they need them, and with sufficient staff capacity. Without central information about the availability of services, older people and their carers must make individual enquiries with numerous service providers.
- A failure of the Government to regularly issue simple and consistent messaging to older people and their carers that there are three broad forms of publicly subsidised services: health and personal care; everyday living support; and accommodation and that each has its own funding arrangements. That messaging should reinforce that there are strong publicly funded safety nets in

place to help subsidise the care and support for older people who have limited means but that those with greater means are expected to contribute to the costs of their services, particularly for everyday living support and accommodation.

In relation to draft principle 1, it would seem more like a statement of one of the overarching objectives of the aged care system rather than a pricing principle. Either way, there is merit in the Taskforce understanding that this is one of the key outcomes that the system is striving to achieve.

Three parts of the current wording of principle 1 are problematic.

The term 'participants' is inconsistent with other descriptors of users of the services provided through the aged care system. However, wording fashions, including reference to clients and consumers, have come and gone. The Taskforce may wish to reassure itself that the use of 'participants' is appropriate.

The term 'encourage' is inconsistent with the more fundamental principle of consumer choice and control. The 2016 Aged Care Sector Committee's *Aged Care Roadmap* was one of several key reports that emphasised the importance of, and benefits from, consumer choice and control:

> *Greater consumer choice drives quality and innovation, responsive providers and increased competition, supported by an agile and proportionate regulatory framework. (p.3)* [4]

Accordingly, UARC does not support wording to the effect that the Government should be 'encouraging' any one particular outcome. However, it is appropriate for the Government to 'support' that outcome where it is the choice of the older person and accords with their needs.

The term 'remain in their home' perpetuates the concept of a binary aged care system where the choice is either to remain at home or to move into a 'nursing home'. In a 2020 report to the Government, which recommended the abolition of Aged Care Approval Rounds (ACAR), it was envisaged that residential care places should be assigned to older people. Approved providers would not be constrained by restrictive numbers and locations of bed licences. Instead, they could respond to consumer needs and preferences and market competition by offering a greater number, location and diversity of accommodation settings in which professional care, including full-time care, is delivered. Residents could also be offered other benefits, such as additional on-site services and communal gardens.[5] The formal abolition of ACAR takes effect from July 2024.

On this basis, draft principle 1 would benefit from having the phrase 'or in other accommodation of their choice' added after 'in their home'.

UARC suggests the following revisions to draft principle 1:

The aged care system should enable and ~~encourage~~ support (participants) to remain in their home or in other accommodation of their choice for as long as they wish and can do so.

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[4] https://agedcare.royalcommission.gov.au/system/files/2020-06/RCD.9999.0002.0001.pdf

[5] Woods, M. and Corderoy, G., 2020. Report to Department of Health 2020: *Impact analysis: alternative arrangements for allocating residential aged care places*. At: https://www.health.gov.au/health-topics/aged-care/aged-care-reforms-and-reviews/impact-analysis-of-alternative-arrangements-for-allocating-residential-aged-care-places

Draft principle 2: Aged care funding arrangements and their outcomes should be fair, simple, transparent and sustainable.

Q.2 What does "fairness" in aged care funding and care services look like?

Fairness has several dimensions, which are usually examined through the lens of the related concept of equity. In an aged care funding context, there are three main dimensions.[6] These were summarised in UARC's Sustainability Discussion Paper (p.44),[7] as follows:

- The first principle is **vertical equity**, which is the principle that those with low means should receive more assistance and those with the capacity to pay should do so.[8] This expectation underpins the means-testing of public funding, the safety-net support for financial hardship and the tiering of personal contributions.
- The second is **horizontal equity**, which requires parity in contributions from individuals of similar circumstances.[9] On this basis, the amount that people pay should be agnostic towards the types of income and assets they have or the settings in which they receive subsidised care.
- Finally**, intergenerational equity** relates to how the costs of aged care services are shared across different generations. This principle suggests that increased contributions from consumers will be necessary to ensure contemporary taxpayers are not overwhelmed by the cost of subsidised care for their elders nor should future taxpayers face an unsustainable burden of public debt arising from public expenditure on aged care subsidies.[10]

Vertical and horizontal equity concerns are relevant in considering the nature of the services being funded and the level of individual contribution to the funding. This issue is further explored in relation to draft principle 3 and the associated question 4.

Intergenerational equity considerations apply to the distribution of funding responsibility between generations. Australian funding of safety nets, including the age pension, relies on general taxation. For aged care in particular, those in the labour force, from their later teens through to retirement, can be paying income tax to fund services received by people in their 80s and older. Although this represents significant intergenerational inequity, it has various merits such as relative simplicity, community acceptance of fairness, and progressive contributions according to earnings. Further, to the extent that the same policy applies to each subsequent generation, there is some measure of reciprocity (while noting the impact of the demographic bulge of baby boomers over the next two decades). Furthermore, intergenerational equity is rebalanced to the extent that each generation is able to accumulate savings (such as in superannuation) and wealth (such as in housing) to contribute to their own aged care and other needs.

UARC's Sustainability Discussion Paper (Chapter 6) presents an analysis of the advantages and disadvantages of potential sources of funding for aged care services by

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[6] Transcript, Sydney Hearing 5, John Piggott, 15 September 2020

[7] Woods, M., Sutton, N., McAllister G., Brown, D. & Parker, D., (2022). *Sustainability of the Aged Care Sector: Discussion Paper*. The University of Technology Sydney. https://opus.lib.uts.edu.au/bitstream/10453/158194/2/UARC_Sustainability%20Discussion%20Paper.pdf

[8] Henry, K. (2010). *Australia's future tax system: Report to the Treasurer*.

[9] Henry, K. (2010). *Australia's future tax system: Report to the Treasurer.*

[10] ACFA (2021) *Ninth Report on the Funding and Financing of the Aged Care Industry*; The Commonwealth of Australia (2021). *2021 Intergenerational Report: Australia over the next 40 years.*

the consumer, including the use of superannuation, personal insurance and equity release products. It had undertaken a similar analysis of taxpayer-based funding options, including pre- and post-funded social insurance and pay-as-you-go.

Q.3 Is funding for Australia's aged care system sustainable? If not, what is needed to make it sustainable?

This is a complex issue that is dealt with at length in other publications. However, for the purposes of this consultation response, the issue is examined in two parts. The first assesses whether the current funding is resulting in a viable aged care sector, and the second looks at longer-term sustainability.

Current financial viability of the sector

For an analysis of the sector's current financial viability, the Taskforce is referred to the latest publications by StewartBrown,[11] the UTS Ageing Research Collaborative[12] and the Department of Health and Age Care.[13] A summary of the key results is outlined below for both residential care and at-home care.

Residential care

Overall, a majority of homes (63%) are making a loss, but only two of the three service areas are loss-making. Occupancy has been trending down (90.9%).

Direct care services, on average, are achieving break-even, even after accounting for a suitable allocation of administrative costs. Almost all revenue (around 95%) comes from publicly funded sources, comprising direct care subsidies and supplements (e.g. AN-ACC) and government grants (e.g. COVID payments). Means-tested resident contributions comprise the remaining 5% of direct care income. However, direct care staffing now has mandatory minimum care minutes per resident. As of December 2022, 90.2% of homes did not have sufficient staff to meet all incoming requirements due to workforce shortages.

Everyday living support services are making a loss on average of $7.38 per resident per day. Most funding (around 85%) comes from residents, with contributions for basic amenities capped for all residents at 85% of the single basic age pension, irrespective of their income and assets. The Government contributes $10.80 per resident per day for a hotelling supplement, which was introduced in response to the services' ongoing losses for everyday living services and the Royal Commission's criticism of the quality of food and other services.

Accommodation services are making a more significant loss, estimated to be, on average, $14.26 per resident per day. The Government pays a daily accommodation supplement to fund the accommodation services for low-means 'supported' and 'partially supported' residents, who comprise approximately 34% of all residents.[14] There are concerns that this supplement, which currently ranges up to $65.49 per resident per day, is not sufficient to cover the total cost of providing accommodation services for these

[11] StewartBrown (2023) *Aged Care Financial Performance Survey Report March 2023 (Q3)*: https://www.stewartbrown.com.au/images/documents/StewartBrown_-_Aged_Care_Financial_Performance_Survey_Report_March_2023.pdf

[12] Sutton, N., Ma, N., Yang, J.S., Lewis, R., Woods, M., Ries, N., Parker, D. (2023*) Australia's Aged Care Sector: Mid-Year Report (2022–23*: https://opus.lib.uts.edu.au/handle/10453/170529

[13] Department of Health and Aged Care (2023), *Financial Report on the Australian Aged Care Sector 2021-22:* https://www.health.gov.au/sites/default/files/2023-08/financial-report-on-the-australian-aged-care-sector-2021-22_0.pdf

[14] Department of Health and Aged Care (2022), Aged care data snapshot—2022, Third release, Australian Institute of Health and Welfare.

residents. Non-supported residents pay for their accommodation either via making a lump-sum refundable accommodation deposit (RAD), a daily accommodation payment (DAP) or a combination of the two. Of concern is that the pricing of non-supported accommodation services (i.e. RAD, DAPs) does not reflect market trends, the price for a DAP is derived from a distortional maximum permissible interest rate (MPIR) and providers are making a considerable and increasing loss.

At-home care

Home Care Packages: There are about 255,000 packages currently allocated to care recipients in a competitive market. In recent years the financial performance of service providers has been trending down. As of December 2022, providers, on average, generated a margin from services of only $0.93 per client day. The level of package utilisation is falling (to only (84.5%), which reduces provider revenue. Industry reports indicate that many providers are not collecting the Basic Daily fee (which would add to the unutilised package value), and little revenue is collected (only 2.2%) from income-tested fees from package recipients.

Commonwealth Home Support Programme: Over 818,000 older people receive one or more entry-level services. There is no clear data on the viability of the providers or of the individual services. Consumer contributions for these mainly everyday living services approximate 8% of the total provider revenue for the program. Older people within the CHSP program will comprise around 80% of the client base for the new Support at Home program, and therefore their needs should drive much of the program design.

Longer-term sustainability

The issue of longer-term sustainability is examined in detail in a UARC Discussion Paper published in 2022.[15] The recent 2023 Intergenerational Report also provides a higher-level overview of this issue.[16]

UARC's Discussion Paper identifies the following four dimensions of sustainability that require a policy response:

- **Fiscal sustainability:** On the revenue side, Australia's reliance on income tax will be under growing pressure as the taxpaying labour force declines as a proportion of the total population. Expenditure pressures are growing from the publicly funded care economy, defence and interest payments. Age care 40 years hence on current policy is projected in the 2023 IGR to be 2.5% of GDP, a significant increase from just two years ago when the 2021 IGR projected 2.1%.[17]
- **Financial sustainability:** As set out earlier, the current policy settings are undermining provider financial viability, which may compromise confidence in private investment in the sector and the continued availability of services.
- **Workforce sustainability**: The changing national demography and the labour intensity of aged care (as with other parts of the caring economy) point to the

[15] Woods, M., Sutton, N., McAllister G., Brown, D. & Parker, D., (2022). *Sustainability of the Aged Care Sector: Discussion Paper*: https://opus.lib.uts.edu.au/bitstream/10453/158194/2/UARC_Sustainability%20Discussion%20Paper.pdf

[16] Treasury (2023), *Intergenerational Report 2023: Australia's Future to 2063*: https://treasury.gov.au/publication/2023-intergenerational-report

[17] Sutton, N., Ma, N., Yang, J.S., Lewis, R., Woods, M., Ries, N., Parker, D. (2023*) Australia's Aged Care Sector: Mid-Year Report (2022–23*: https://opus.lib.uts.edu.au/handle/10453/170529

immensity of the task of providing sufficiently attractive wages and conditions to ensure workforce availability.

- **Societal sustainability:** Community and taxpayer trust depend on improvements in the quality and safety of aged care and satisfactory policy responses to the other three dimensions of sustainability.

UARC argues that policy responses should be broad-based:

- **Reduce the demand for aged care services** – by improving the health and wellbeing of older people
- **Improve the effectiveness of services** – by only funding services that contribute to the program objectives
- **Improve the efficiency of the delivery of services** – by supporting innovations which can produce the same level and quality of services with less funding and labour
- **Rebalance the equity of funding** – by requiring those with significant means to make greater contributions to, in particular, their everyday living support and accommodation.

UARC supports the wording of draft principle 2.

Draft Principle 3: Government is and will continue to be the major funder of aged care. Government funding should be focused on care costs. Personal contributions should be focused on accommodation and everyday living costs with a sufficient safety net.

Q.4 What costs do you think consumers in aged care should contribute to and to what extent? How is this different for care, compared with everyday living expenses or accommodation?

This issue is best explored through the lens of the equity issues raised earlier. In particular, the concepts of vertical and horizontal equity provide a framework for considering how all older people are treated fairly, both in being able to access subsidised services and in the level of individual contributions they may be asked to pay for those services.

Equity in access to services: In general, Australia has elements of a policy of universal health cover, which applies the principle of equity to healthcare as determined by clinical need. Public hospital treatment is provided at no personal cost, determined by clinical need and irrespective of the patient's financial capacity. However, the full measure of that policy does not extend to access for all to GP bulk billing and is not generally applied to allied health services or dental care. With ageing can come a need for a more diverse range of direct care such as nursing, allied health and personal care services and increasing intensity of their use. While these additional care services warrant a high level of public subsidy, some consumer contribution would still be expected.

Equity in funding: This refers to the distribution of funding responsibility across a broad age cohort according to a means-tested capacity to pay. It is a common design feature where those with higher means are required to rely increasingly on their own resources, and only those with limited means receive a targeted publicly funded safety net. Everyday living support services and accommodation are generally considered to be a personal responsibility. At the same time, those of limited means could expect to receive

safety net support such as the means-tested age pension, public housing and Commonwealth rental assistance. Nonetheless, to the extent that older people generally need greater support for their everyday living activities (both in scope and intensity of services) due to frailty, dementia and other conditions of ageing, then a measure of public funding would be warranted.

From the above, UARC supports the following approach to achieving *intra*-generational equity across the cohort of older people (noting that issues of *inter*-generational equity between older people and taxpayers have been discussed earlier).

Direct care

UARC supports a strong taxpayer-funded safety net for direct care, with a means-tested contribution for older people with significant levels of income/wealth. This arrangement should apply equally to funding the delivery of direct care in a domestic setting (a person's long-term home, serviced apartment, retirement village etc.), where service pricing should be regulated, or in an aged care home according to an AN-ACC funding assessment.

Everyday living support

UARC supports, for people living in a domestic setting, an emphasis on personal contributions for everyday living support (including people paying from their age pension). However, recognising that the scope, intensity and cost of those services will increase with greater frailty, dementia and other conditions of ageing, there is a rationale for a level of publicly funded support targeting those who could not otherwise afford to pay for these services. This support would taper down for those who have higher levels of income/wealth. All older people with sufficient means should pay the full regulated amount (or choose to purchase these services from the general market). Service pricing should be regulated.

UARC supports, for residents in an aged care home, an emphasis on personal contributions for everyday services, with a cap of 85% of the single basic age pension for full pensioners and a taxpayer-funded safety net to top-up their contributions, up to a regulated efficient viable level of funding for providers. The safety net should be tapered down for part pensioners, and all older people with sufficient means should pay the full regulated amount.

Accommodation support

UARC supports, for residents of aged care homes, an emphasis on personal contributions for accommodation, with a range of payment options that recognise differences in their access to income and asset wealth. A taxpayer-funded safety net should be provided for those without sufficient means to meet (fully or in part) the cost of their accommodation. Accommodation pricing should only have a softly regulated price review threshold and should retain appropriate incentives to ensure equitable access for low-means residents.

UARC supports the wording of draft principle 3.

Draft principle 4: Government and participant contributions should be sufficient to provide quality and appropriate care delivered by a skilled workforce, allowing and encouraging innovation by the health, hospital and aged care systems.

UARC is responding to the draft principle in two parts, largely in line with the two associated questions.

However, it first suggests that the Taskforce may wish to reconsider and possibly delete the reference to 'health and hospital' in the current draft of the principle. UARC finds a lack of clarity of intent in the use of those two terms. The term 'health' is broad and encompasses 'hospitals'. Is the Taskforce referring instead to 'primary health care' and 'acute care'? Both have strong interdependencies with aged care:

- Cost-effective investment in primary health care (community nursing, allied health and medical) could improve older people's well-being and reduce the rate of growth in demand and resource use in aged care.
- Equally, inadequate provision of aged care can result in more significant and avoidable use of Australia's expensive acute care (hospital) services.

UARC is also unclear as to how funding for quality and appropriate aged care allows for and encourages innovation in these other two sectors. If the Taskforce retains reference to them, it may wish to provide an explanation of the causal pathways it envisages.

Q. 5. What does quality and appropriate care mean to you?

The notion of quality and appropriate care was well discussed at the Royal Commission, which in its Final Report proposed the following definition of 'high quality care':

- *High quality aged care puts older people first. It assists older people to live a self-determined and meaningful life through expert clinical and personal care services and other support, provided in a safe and caring environment. High quality aged care is respectful, timely and responsive to older people's preferences and needs and assists them to live a dignified life.*
- *High quality aged care is provided by caring and compassionate people who are educated and skilled in the care they provide. It enables older people to maintain their capacities for as long as possible, while supporting them when they experience functional decline or need end-of-life care.*
- *High quality aged care delivers a high quality of life. It enables people to engage in meaningful activities that provide purpose, and provides the opportunity for people to remain connected to their community.*[18]

UARC agrees with most aspects of this definition, noting that quality and appropriate care is multi-faceted, in that it:

- is suitable in addressing an older person's care needs.
- requires taking a person-centred approach that prioritises an individual's distinct will, preferences, desires and needs, and recognises the dignity of risk.

[18] Royal Commission into Aged Care Quality and Safety (2023). *Final Report: Care, Dignity and Respect, Vol. 1,* p.91: https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-1_0.pdf

- includes social inclusion and engagement and helps maintain emotional and mental well-being.
- is delivered by suitably skilled and knowledgeable caregivers and care workers who have a shared understanding of their contribution to a culture and delivery of quality and appropriate care and who themselves require nurture and support.
- is delivered in suitable built environments and physical settings, in both aged care homes and domestic settings, that are safe for care recipients, care workers and care givers alike.

However, in contrast to the Royal Commission, UARC takes this position that quality and appropriate care is not usefully described as being 'high' or 'low'. More simply, quality and appropriate care simply exists, or it does not.

Q.6. What does innovation in aged care mean to you? How can funding support it?

This can be a complex issue. However, at its heart, there are two issues. First, investment in innovation and supporting research requires confidence that the sector will be viable over the longer term and second, the regulatory settings play an important role.

Regarding the nexus between sector viability and innovation, the Aged Care Financing Authority noted that:

> *The funding arrangements will also need to be flexible so that providers can respond and adapt to changes in consumers' preferences for aged care services as well as innovate and embrace new technologies.*[19]

The UARC Sustainability Discussion Paper made a related point touching on the nexus between innovation and efficiency in the built environment:

> *…developing, upgrading and refurbishing aged care homes can generally increase the effectiveness and efficiency of service delivery and labour productivity, and lead to enhanced quality of life for the residents.* [20]

Furthermore, an examination of policy settings for science and innovation in Australia conducted by the Productivity Commission found that:

> *There are two strong rationales for public funding support of science and innovation.*[21]

The first is that public funding contributes strongly to innovation in a government's own activities, and the second rationale is where there are 'spillovers' from investments in innovation that cannot be captured by the innovator. In the latter instance, however, the report concluded that many investments that produce spillovers have sufficient private returns for firms to invest without public support. The challenge is for public funding to generate additional private investment that would not otherwise have been made and for the benefits to exceed the public costs.

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[19] Aged Care Financing Authority, *Ninth Report on the Funding and Financing of the Aged Care Industry - July 2021, p.112* https://www.health.gov.au/resources/publications/ninth-report-on-the-funding-and-financing-of-the-aged-care-industry-july-2021?language=en

[20] Woods, M., Sutton, N., McAllister G., Brown, D. & Parker, D., (2022). *Sustainability of the Aged Care Sector: Discussion Paper, p.60:* https://opus.lib.uts.edu.au/bitstream/10453/158194/2/UARC_Sustainability%20Discussion%20Paper.pdf

[21] Productivity Commission. Public Support for Science and Innovation, March 2007. p. xviii https://www.pc.gov.au/inquiries/completed/science/report/scienceoverview.pdf

The second issue is the important role of regulation. In a widely quoted 1980 study of the impact of government regulation on innovation (in this instance on the rate and direction of innovation in U.S. manufacturing and industry), the author concluded:

> *Regulation has forced some innovation, be it compliance, but in most cases it has not stimulated radical technical change. Overall, evidence suggests that the impact of regulation on business innovation has been negative and that regulation has delayed and even prevented innovation in a number of areas.*[22]

In contrast, the Royal Commission recommended the imposition regulated minimum care minutes for direct care staff and a subset of those minutes for Registered Nurses. While this results in compliance, UARC analysis has shown that one of the initial consequences of implementing that recommendation has been a potential adverse substitution effect, whereby the use of enrolled nurses has declined, as providers respond to managing the regulated input constraints.[23]

UARC has not proposed a revision to draft principle 4 but recommends the Taskforce reconsider some of its wording in the light of the matters raised above.

Draft principle 5: There should be accountability for funding received from government and participants, how it is spent, and the quality of the services provided.

UARC supports the general intent of this principle. It captures the concepts of provider stewardship of public and private funds, the efficient and effective allocation of those funds and the quality of the outcomes resulting from using those funds.

However, there are two revisions that the Taskforce may wish to consider.

The first is a simple clarification that this principle is directed to the performance of individual providers. On this basis, the addition of the term 'provider' after 'There should be' would helpful.

Second, UARC proposes that there be a reference to 'transparency' as well as 'accountability'. Transparency is a necessary precursor or enabler of accountability and therefore provides a first line of information and assessment for all stakeholders, including taxpayers, irrespective of the accountability measures put in place. This is consistent with other aged care reports. For example, Principle 5 of the recent *Impact analysis: alternative arrangements for allocating residential aged care places* was: 'Have transparent and accountable processes.' [24]

This is not to diminish the importance of properly analysing and responding to that transparent information. As a military strategist recently observed in relation to the war

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[22] Rothwell, R., The impact of regulation on innovation: Some U.S. data, *Technological Forecasting and Social Change,* V.17, Issue 1, May 1980. https://doi.org/10.1016/0040-1625(80)90055-4

[23] Sutton, N., Ma, N., Yang, J.S., Lewis, R., Woods, M., Ries, N., Parker, D. (2023*) Australia's Aged Care Sector: Mid-Year Report (2022–23*: https://opus.lib.uts.edu.au/handle/10453/170529

[24] Woods, M. and Corderoy, G., 2020. Report to Department of Health 2020: *Impact analysis: alternative arrangements for allocating residential aged care places*, p.59: https://www.health.gov.au/health-topics/aged-care/aged-care-reforms-and-reviews/impact-analysis-of-alternative-arrangements-for-allocating-residential-aged-care-places

on Ukraine: 'However, more transparency does not always mean more wisdom about what is transpiring.'[25]

UARC suggests the following revision to draft principle 5:

There should be provider transparency and accountability for funding received from government and participants, how it is spent, and the quality of the services provided.

Draft principle 6: The residential sector should have access to sufficient, and new, capital to encourage the development of new accommodation and upgrades to existing accommodation.

UARC supports the general intent of this principle which, in other forms, has also been adopted in recent reports such as the following:

> *Facilitate a residential aged care sector that has continued growth and financial investment which responds to increasing consumer demand and changing preferences.* [26]

UARC's Sustainability Discussion Paper sets out the broader context for considering this issue:

> *... the overarching concern is that without a sector that has long-term financial viability, there will not be sufficient investment in aged care and eligible consumers will not have access to high quality and safe services.*[27]

Before addressing Question 7, UARC wishes to address whether the principle should be declarative that 'the sector should have access to capital' or address the more fundamental concern about provider viability.

By way of background, the 2021 (and final) Report of the Aged Care Financing Authority made several pertinent observations:[28]

- Population ageing and increasing consumer expectations will require significant future investment in the residential sector for both new facilities and refurbishment (p.110).
- On the basis of various modelling assumptions, the combined total investment for new and rebuilt places over the next decade would be around a net present value of approximately $48 bn, compared to around $20 bn of building and upgrade work in the decade to 2020 (p.111).

[25] Ryan M., Drone warfare features in the Ukraine-Russia conflict. It is changing warfare in five ways. *ABC News* 29 August 2023. https://www.abc.net.au/news/2023-08-29/russia-ukraine-drone-warfare-five-ways-combat-will-change/102782938

[26] Woods, M. and Corderoy, G., 2020. Report to Department of Health 2020: *Impact analysis: alternative arrangements for allocating residential aged care places*, p.59: https://www.health.gov.au/health-topics/aged-care/aged-care-reforms-and-reviews/impact-analysis-of-alternative-arrangements-for-allocating-residential-aged-care-places

[27] Woods, M., Sutton, N., McAllister G., Brown, D. & Parker, D., (2022). *Sustainability of the Aged Care Sector: Discussion Paper, p20*: https://opus.lib.uts.edu.au/bitstream/10453/158194/2/UARC_Sustainability%20Discussion%20Paper.pdf

[28] Aged Care Financing Authority, *Ninth Report on the Funding and Financing of the Aged Care Industry - July 2021* https://www.health.gov.au/resources/publications/ninth-report-on-the-funding-and-financing-of-the-aged-care-industry-july-2021?language=en

- Key requirements for investment include: the sector having confidence in the direction and stability of Government policies; providers receiving a return to attract the necessary capital and labour resources; and the funding arrangements being flexible to enable provider responses to consumer needs and preferences. (p.112).

The UARC Sustainability Discussion Paper also explored many of these themes, referring to:

> *A general conclusion in capital financing choice that policy certainty is an essential element of any initiatives that aim to increase the flow of capital from investors and debt providers… and that the flow of capital follows appropriate returns, given the risk and uncertainty of the investment.* [29]

A further consideration is that regulatory settings can impede or support the flow of capital. ACFA's 2021 report argued for the abolition of bed licences and noted the detrimental effect they had on the industry's capital investment. It concluded that the abolition of bed licences could positively affect investment by well-managed providers as they will be free to build new, or expand existing, aged care accommodation as they see fit. [30]

Q. 7. What is the role of Government versus private investment in funding upgrades and constructing new facilities? Is the role different in rural and remote locations?

In general, UARC does not support the assertion in the draft principle that the residential sector should have access to sufficient and new capital, and any associated implication that this may be a government responsibility. To the contrary, UARC takes the position that, as with any commercial operation, providers are responsible for generating or setting aside appropriate funds (such as through private capital raising, the debt market or from retained prior earnings) to invest in appropriate refurbishment, upgrade or expansion of their physical infrastructure. Providers are also responsible for demonstrating sound strategic planning and management that would garner support from financiers. The Government does, however, have responsibilities in relation to overall sector viability and the appropriateness of its regulatory regime.

UARC also notes with concern the low rates of depreciation expenditure across the sector. These are likely to be underestimated due to a tendency for providers to record facility values at historical cost (rather than replacement value) and providers to over-estimate their facilities' useful lives. [31]

However, there can be a case for Government-funded capital grants for providers that service residents in rural and remote locations. This is because homes in these areas tend to experience lower rates of occupancy than homes in metropolitan areas, are more exposed to variations in revenue and may not be able to accumulate sufficient margins

[29] Woods, M., Sutton, N., McAllister G., Brown, D. & Parker, D., (2022). *Sustainability of the Aged Care Sector: Discussion Paper, p.60*: https://opus.lib.uts.edu.au/bitstream/10453/158194/2/UARC_Sustainability%20Discussion%20Paper.pdf

[30] Aged Care Financing Authority, *Ninth Report on the Funding and Financing of the Aged Care Industry - July 2021, p.117:* https://www.health.gov.au/resources/publications/ninth-report-on-the-funding-and-financing-of-the-aged-care-industry-july-2021?language=en

[31] Sutton, N., Ma, N., Yang, J.S., Lewis, R., Woods, M., Ries, N., Parker, D. (2023*) Australia's Aged Care Sector: Mid-Year Report (2022–23*), p.100 https://opus.lib.uts.edu.au/handle/10453/170529

to pay for new facilities or upgrades to capital infrastructure. In such situations, Government capital grants play a role in preserving equitable access to residential aged care services for older people outside the major cities.

Similar provisions may also be appropriate for other types of specialised services that service small market segments (otherwise referred to as 'thin markets'), including but not limited to, specialist services for people experiencing homelessness, Aboriginal and Torres Strait Islander communities, CALD communities and LGBTQ+ communities.

UARC suggests the following revisions to draft principle 6:

The residential sector should be viable and not be impeded by inappropriate regulation, to enable it to ~~have~~ access ~~to~~ sufficient, and new, capital ~~to encourage~~ for the development of new and more varied accommodation and upgrades to existing accommodation.