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NEWS

An Uber-like app that matches aged-care facilities with casual workers has won a government contract despite questions over what it provides. By *Rick Morton*.

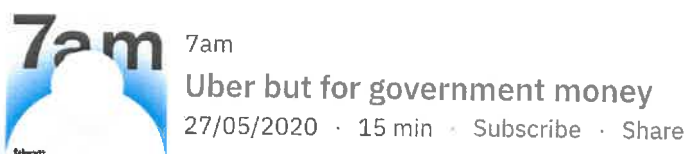
Exclusive: Gov's \$5.8m aged-care app offers 'no duty of care'



In the midst of the coronavirus pandemic, the federal government awarded a \$5.77 million contract to an aged-care staffing app that claims to have no “duty of care” for the quality of its workforce or liability for the care provided.

The contract is for a “surge workforce” in nursing homes affected by Covid-19 infections and is valid until the end of June. It went out as a limited tender on the grounds it was “to protect human health” and is therefore exempt from the Commonwealth’s own procurement rules.

The Mable app connects aged-care providers with freelance workers to fill holes in staffing. Payment is made through the app, which ordinarily takes a 10 per cent commission.


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In a memo sent to nursing home providers in April, the Department of Health announced it would pay wage costs for any crisis workers employed via the Mable app. It does not appear that the government would subsidise workers who were not employed through the app.

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example, if a registered nurse or personal care worker is urgently needed and cannot be sourced by the provider," the memo read.

"This is designed to fill an immediate gap while the provider finds a longer-term solution. Support workers engaged via Mable will be available to the provider for up to four weeks and payable by the Department."

Exemptions in the tendering process mean the contract is not subject to ordinary value-for-money checks, nor "accountability and transparency" provisions, and is also not captured by rules governing "efficient, effective, economical and ethical procurement".

The Department of Health confirmed to *The Saturday Paper* that the contract cannot be judicially reviewed under strengthened legislation that ordinarily allows Commonwealth agencies to be scrutinised in either the Federal Court or the Federal Circuit Court.

Mable is not a direct employer of support workers or nurses. It functions much like Uber, or other gig economy-style platforms. The app explicitly states in its terms that any person hired through its platform is "not a partner, employee, independent contractor or agent" of the company.

"You acknowledge that you are not legally affiliated with Mable," conditions on its website say.

Note

Further, Mable states that it "has no control over and is not responsible for the acts or omissions of any Users on or off the site".

The app "makes no representation or warranty regarding the quality of any Home Care Services or any other services provided by any Member; is not responsible for the accuracy or reliability of any information provided by any Member on the Site; and takes no responsibility and has no obligation in contract or duty of care to manage or involve itself in any interactions between Users or in respect of any Support Worker Contract".

Critics have argued the aged-care system has become about "real estate and property management" rather than care.

The company, chaired by Jamie Odell, a former managing director of beverage giant Foster's Group and former long-time chief executive of poker machine company Aristocrat, says it has a strict vetting process for all support workers who advertise their services on its platform.

All are required to pay for their own police background checks, and registered nurses, for example, have their registration with official bodies confirmed. They must have "one year of relevant experience".

However, for workers with lower qualifications, including assistant nurses with TAFE certificates, the rules are less clear.

"Care workers offering personal care require certain qualifications, a copy of which must be uploaded. We also require reference checks. No care worker can go live on the platform until these things are complete," Mable says on its website.

When asked to clarify if Mable verifies these qualifications, the company responded: "For every worker on our website, we undertake a national police check, reference check, and, where relevant, working with children checks, sighting certifications and qualifications and checking AHPRA [Australian Health Practitioner Regulation Agency] registrations."

Mable was the only platform selected by the federal Department of Health for crisis aged-care surge teams. But the federal government's effort to contain Covid-19 outbreaks in aged-care facilities also included a \$15.7 million contract awarded under the same limited tender process to a private company, Aspen Medical, to provide emergency response teams of nurses, allied health staff and care workers in aged-care facilities.

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Staff from Aspen Medical were on site at Anglicare's Newmarch House during its fight to contain the spread of the virus. They worked alongside the staff hired through the Mable platform, who were paid for by the federal government.

Academic and aged-care reform advocate Sarah Holland-Batt tells *The Saturday Paper* she has concerns about the government's arrangement with Mable.

"It's bizarre the Department of Health has earmarked the money for a single platform, which may not be able to service all regions or needs adequately with its pool of carers," she says.

"For the government to cordon off funding and restrict it to just one platform – when there might be only a handful of qualified people in a given area, some of whom may not be on Mable – reduces recruitment options for providers."

In its April circular to aged-care providers, the Department of Health went one step further, appearing to promote the company's services beyond the pandemic.

"You can also use the Mable platform to find and engage support workers at any time as it is a workforce source that can be used to fill vacancies even if a provider is not affected by Covid-19," the memo read.

"This can occur without coming through My Aged Care, however, you will be responsible for the cost of engaging these workers."

Mable's team is well connected.

Note

The company was co-founded in 2014 by former Bankers Trust partner Peter Scutt and investment banker Tony Charara. It counts among its backers former Packer family investment vehicle Ellerston Capital, its largest shareholder, with a \$10 million stake.

In July 2017, then Aged Care minister Ken Wyatt officially opened the company's expanded headquarters, saying it reflected the then Turnbull government's "vision of individual choice and control in a consumer-driven market".

Wyatt was joined at the launch by Ian Yates, chief executive of the Councils on the Ageing (COTA), the peak consumer advocacy body for older Australians.

Yates, who is part of the small group advising the Department of Health on aged care during the Covid-19 pandemic, also gave the outfit a plug in his written statement at the opening of the Royal Commission into Aged Care Quality and Safety in January last year.

"We were pleased to support the introduction of Mabel [sic] ... into the marketplace about five years ago as one such early example of improving a consumer's choice and control," he said in the statement.

"COTA recognises that they are not the only model and that many consumers (indeed perhaps a majority of consumers) will want to choose a more traditional care model of provider-managed services. Nevertheless, COTA encourages the Commission to ensure that ongoing innovation and new practices within aged care are not inhibited in any future reforms."

Yates confirmed COTA is a shareholder in Mable but said the stake – 2 per cent granted in lieu of consultancy fees – was currently not worth anything.

"If Mable ever start making a profit, they will be worth something," he said.

The Department of Health said there was no discussion with Yates about the Mable tender before it was offered to the company. Yates separately confirmed this.

"The Department considered a range of options and it was determined that the Mable platform offered a scalable, national platform to provide initial workforce surge to Commonwealth-funded aged-care providers," a Health Department spokeswoman said.

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Since John Howard's reforms in 1997, the aged-care sector has become increasingly privatised, despite relying on government revenue. Critics have argued the system has become about "real estate and property management" rather than care, especially since the Gillard government's reforms in 2012. Too often, the promise of the free market has only entrenched inequities in an already struggling portfolio with only an illusion of accountability.

In its searing interim report, the royal commission said it is a "myth that aged care is an effective consumer-driven market".

"It is time for a reality check. The aged care sector prides itself in being an 'industry' and it behaves like one," the report says.

"This masks the fact that 80 per cent of its funding comes directly from government coffers. Australian taxpayers have every right to expect that a sector so heavily funded by them should be open and fully accountable to the public and seen as a 'service' to them."

The commissioners also noted the system "lacks fundamental transparency" and while it appears to be heavily regulated, they heard evidence that it "is unfit for purpose and does not adequately deter poor practices".

"Indeed, it often fails to detect them," the report says.

University of Technology Sydney lecturer Marie dela Rama, who specialises in corporate governance and aged care, has made a submission to the federal parliament's senate select committee inquiry into the government's handling of Covid-19. Her submission raises Mable specifically as a core concern.

"Newmarch House symbolises the Canberra dysfunction to effectively regulate the sector as it hires third parties and expensive intermediaries to duplicate what is already [in] place in the states, and muddies the communication channels and displaces effective delivery of health services," Dr dela Rama wrote in her submission.

"As it stands, the lobby groups of the aged care sector have run policy rings around our elected representatives and the federal bureaucracy. This stranglehold must end.

"There continues to be no transparency, no accountability and no responsibility over the \$21 billion of public funding this sector receives. Throwing more money at this sector with no care delivery outcome that directly addresses the concerns of human rights abuses and neglect which proliferates in this sector will yield an ever growing more expensive status quo - a status quo that we can ill afford in this time of Covid."

The Department of Health said the money was paid directly to Mable so that "approved providers are not out of pocket at any time and do not need to be concerned about paying these workers". Any money left in the contract on June 30 will be "returned to the Commonwealth".

So far, Mable staff have been used in only two aged-care services under the specific Covid-19 program, although the Department of Health declined to name the providers.

This article was first published in the print edition of The Saturday Paper on May 23, 2020 as "Exclusive: Gov's \$5.8m aged-care app offers 'no duty of care'".

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