Australian Unity

SUBMISSION TO SENATE COMMUNITY AFFAIRS COMMITTEE

INQUIRY INTO THE AGED CARE (LIVING LONGER, LIVING BETTER) BILL 2013

APRIL 2013

Author and contact details:

Derek McMillan

Chief Executive Officer - Retirement Living

Australian Unity

Level 5, 114 Albert Road

South Melbourne VIC 3205

SUMMARY

The Aged Care (Living Longer Living Better) legislation will do too little to deliver better quality and greater choice of aged care in this country. It fails to encourage future investment in the aged care sector, which has significant ramifications for the ever-growing cohort of older Australians as we head towards 2020.

Australian Unity is concerned that despite the excellent Productivity Commission report "Caring for Older Australians", the proposed legislation fails to lay the structural foundations to make the sector more self-reliant. Instead, both aged care providers, and, by extension, recipients will be asked to abide more regulations overlaying the existing, out-dated system. And pay more to do so.

Aged care services will continue to be rationed on a first-in, first-served basis rather than being allocated according to need. And little is envisaged to give older Australians increased access to quality care or a greater choice of care, nor to promote competition or drive innovation.

Put simply, the proposed legislation is an opportunity missed. Further, it is being rushed, with the detail of the system remaining unclear to the industry, with potentially significant socio-economic consequences.

In an effort to keep its submission brief (and recognising that we remain willing to address the committee on its contents) Australian Unity will focus on three principal concerns regarding the proposed legislation:

1. The lack of clarity on detail, which will be left to subordinate instruments to be finalised prior to July 1, 2014. Providers in the sector, with many millions of dollars at stake in current and planned investments, are left in an extremely difficult position due to the lack of transparency of the content of these instruments, known as "principles documents." Principles documents should be subject to a consultation period before any of the Living Longer, Living Better legislation is pursued further by parliament.

2. We suggest the proposal to require prior approval from the Aged Care Pricing Commissioner of some Aged Care accommodation payments (based on a new income and assets test) infantilises older Australians and restricts their choices. Importantly, such a policy will prolong the life of old, sub-standard accommodation and will curtail quality development in the aged care sector.

3. Mechanisms to release equity from the family home, we argue, have been ignored in the proposed legislation. Failure to address this will stymie the sensible Productivity Commission goal of progressing towards a "user-pays" system. We propose the equity released on the sale of a family home when older Australians move into more appropriate accommodation should be available for co-contribution towards care costs and not merely a substitution for diminished pension payments.

Australian Unity would be grateful for the opportunity to expand on these points in person before the committee.

INTRODUCTION

Australian Unity is a national healthcare, financial services and retirement living organisation providing services to some 620,000 Australians, including 320,000 members nationwide. Australian Unity's history as an independent mutual organisation dates back over 170 years.

Australian Unity Retirement Living operates 19 retirement communities, including four aged care facilities, in Victoria and New South Wales, with around 2,000 home units, 450 aged care beds and 200 staff providing in-home services. It also has four retirement villages and two residential aged care facilities under development.

This submission is provided to the Senate Community Affairs Committee ("the Committee") from the perspective of a developer and long-term operator of retirement and aged care communities, an organisation that is familiar with the needs and preferences of those looking to secure their care as they age.

1. LACK OF TRANSPARENCY OF PRINCIPLES DOCUMENTS

The current Living Longer, Living Better proposed legislation, in our view, leaves too much detail to be decided in the Principles documents that are not as yet finalised, and will be prepared some time prior to July 1, 2014.

Because of the apparent rush to bring this "framework" legislation before the current parliament, the content of the principles documents is unlikely to be undertaking until the passage of the proposed legislation.

Australian Unity reminds the Committee of its own view on such a legislative situation, contained in its report on the National Disability Insurance Scheme Bill 2012;
"As a matter of good public policy, when a bill seeking to institute significant national reforms is going to rely on extensive subordinate legislation, a draft of that ancillary material should be released as close as possible to the introduction of the bill itself, to enable both Parliament and the public to fully consider the issues before it."

Australian Unity considers the proposed Aged Care Principles Navigation Overview doesn't provide enough clarity on the timing nor the content of discussion around issues raised by the legislation.

2. CONTROL OF ACCOMMODATION PRICING

Australian Unity foresees serious issues with the proposal for Aged Care providers to be required to seek prior approval for the level of accommodation payments beyond a threshold.

One of the acknowledged problems with the current system is its lack of flexibility and over-regulation. The Productivity Commission expressly recognised this in its proposals to bring a more market-oriented approach to the provision of aged care.

The sector is already commercially competitive, we submit, and not characterised by excessive pricing. What mischief do the new laws, which generate more bureaucratic intervention, correct that market forces wouldn't?

In Australian Unity's view, these pricing controls on accommodation are an unnecessary intervention between an older person looking to ensure their accommodation (and the method of paying for it) work best for his or her own circumstances, and a provider looking to build and run a sustainable business.

Australians have long taken personal responsibility for the location, standard, style and financing of their accommodation, and older Australians are entitled to the same freedom. It is in our view unarguable that these rights should be protected, yet the proposed new laws will curtail them.

Further, pricing controls on accommodation will inevitably impede substantial new private investment in the sector, the corollary of which is more government spending to look after people in their frail old age.

Requiring pricing approval for accommodation will discourage providers to pursue opportunities to rebuild better accommodation on existing aged care sites, or seek potential development in the inner and middle suburbs (where there is considerable need but where land and construction costs are highest). Currently, only top quartile operators can generate adequate returns from new aged care developments and this is only because of care funding subsidising accommodation payments. Even with a top quartile performance, operators are unable to raise third-party capital for property ownership as the rents payable at $10,000 per bed would generate only 4% yield for the property owner on a newly constructed aged care facility.

Rather than take the risk of receiving government approval to charge accommodation costs that will realise a fair, risk adjusted return on investment, developers will instead look to the urban fringes, where land is cheaper, and construct lower quality accommodation to deliver accommodation that comes under the approval threshold.

And it discourages innovation. Providers will be reluctant to innovate with new models of care – for instance hybrid aged care and retirement living facilities – for an increasingly discerning consumer, on the basis they will have to seek approval to charge the price required for an appropriate return on investment. Providers will be pushed into maintaining out-dated, older buildings with shared facilities instead of building for consumer needs, for which they would be willing to pay a fair price.

3. ALLOW OLDER PEOPLE TO RELEASE EQUITY IN THEIR HOMES TO ACCESS AGED CARE OR RETIREMENT LIVING WITHOUT CUTTING PENSIONS

Australian Unity maintains the view that, while the principal place of accommodation is exempt from the pension assets test, older Australians are reluctant to move into accommodation that better suits their needs. However by changing the pension assets test to remove the equity released from the sale of the family home from any calculation of assets, housing mobility will increase and funds will be released for care co-contribution.

The proposed legislation ignores this important reform, which in our view is one of the keys to ensuring quality of life for older Australians as the population ages.

There exists billions of dollars of equity trapped in the home of older Australians, which could be utilised to contribute to the costs of care and a better quality of life of our elders. At present, "asset rich, cash poor" pensioners who sell their existing home to downsize into more appropriate housing such as an apartment or a retirement village are punished by a reduction in their pension. This happens because they have released some equity from the sale, which is insufficient to live on, but which significantly reduces the level of their pension entitlement.

This is a key factor behind many retirees deciding to continue in their age-inappropriate housing, which can lead to social isolation, the higher risk of falls, and an inability to keep big family house safely maintained.

There are a number of upsides to addressing this anomaly. First, it would make available to growing families scarce private housing stock in inner and middle suburbs. Second, it would leave money available for co-payment programs for in-home care.

Making such a change would come at no cost to government, because the default behaviour (the older person remaining in their family home) requires the continuation of existing pension payments and an inability to co-contribute to their costs of care. Perceived risks of such a proposition can be mitigated by asset-based (such as over $300,000) or aged-based (such as under 75 years) limits.

Derek McMillan

Chief Executive Officer - Retirement Living