AGED CARE INDUSTRY ASSOCIATION

Submission to Senate Inquiry into the effectiveness of the aged care quality assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practiced

3 August 2017

The Aged Care Industry Association (ACIA) is the peak body representing both for-profit and not-for-profit aged care providers in South Australia. We represent and advocate for our members to governments and other stakeholders; we promote best practice in aged care; we provide education and training services; we support information sharing and cooperation across the industry.

Contact

Luke Westenberg

Chief Executive Officer

08 8338 6500

enquiry@acia.asn.au

KEY POINTS

The Aged Care Industry Association (ACIA) believes that there is scope for the existing aged care quality assessment and accreditation framework to be improved, through:

- better alignment with known risk factors
- fostering collaborative engagement with aged care providers
- focusing on positive outcomes for residents rather than regulatory responses

It is important that policy be evidence-based, and focused on resident well-being.

When incorporating residents' views into quality assessment, a clear distinction must be drawn between subjective judgements of resident experience and objective judgement of technical aspects of care provision.

Aged care quality monitoring is most effectively targeted at systems and processes rather than outcomes, given the potential role of chance in outcomes.

ACIA supports development of a consistent dataset on aged care outcomes as an input to quality assessment.

The Oakden facility was unique, and not representative of aged care in Australia. Any care failures identified in such a facility should not be assumed to generalise to the industry.

RESPONSE TO TERMS OF REFERENCE

a) the effectiveness of the Aged Care Quality Assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised;

When considering the effectiveness of the existing quality assessment and accreditation framework, it is important to take a broad view of care quality and the potential for abuse of residents.

For example, elder abuse perpetrated by relatives or others close to older people may be able to be detected and addressed by residential aged care facilities. The quality assessment and accreditation framework may profitably be extended to highlight the role that aged care providers can play in protecting residents from abuse by families or those close to them.

Overall, the existing quality assessment and accreditation framework seems to have worked effectively at a system level. The clear failures to protect residents apparent at Oakden should be seen in light of:

- the uniqueness of Oakden as a facility;
- the low levels of complaints reported in the aged care system[1];
- the limited number of regulatory actions taken by the Department of Health and the Australian Aged Care Quality Agency[2]; and,

[1] In the four quarters to March 2017, the Aged Care Complaints Commissioner received 4,600 complaints nationally – from a population of nearly 200,000 older people receiving residential care. This equates around 2 complaints per 100 residents over a year.

- the sustained increase in the number of facilities meeting all accreditation requirements[3].

When assessing the effectiveness of the existing framework, there are some important conceptual issues to be considered.

1. Which areas of quality can effectively be judged by consumers? In essence, quality in aged care is a mixture of technical considerations (such as infection control practices) and subjective judgements about residents' experiences. Appropriate measures of quality in each of these domains will differ significantly.

2. When assessing technical areas of quality in aged care, it is necessary to look at systems and practices in place. Assessment of care quality in these technical areas requires an assessment of risk and its appropriate management. Poor care practices may not lead to poor outcomes (if the risks do not come to pass) – however, they should not be judged as adequate on the absence of poor outcomes. Similarly, good practices cannot entirely remove risks (taking the infection control example again, family members may be a source of infection risk for residents; aged care facilities cannot fully control this risk) – thus, judging by outcomes risks confusing poor-quality (but lucky) facilities with high-quality (but unlucky) facilities. Given this uncertainty about outcomes, quality assessment in aged care requires an assessment of systems and practices.

3. In those areas of quality appropriately judged by residents, it is important to remember that residents' assessments are subjective. A service that one resident finds acceptable may be completely unacceptable to another. However, subjectivity does not render these judgements uninformative – but the information they contain must be understood correctly. An assessment of residents' subjective wellbeing (as judged by the residents) may provide an indication of the facility's provision of person-centred care; high levels of resident-reported satisfaction would suggest that these aspects of care is being successfully individualised.

4. When considering residents' judgements of quality, it is important to distinguish between the perceptions – and the priorities – of residents and of families. As noted by Atul Gawande, "safety is what we want for those we love, and autonomy is what we want for ourselves"[4]. To the extent, then, that residents' reported views reflect those of their families, there is a risk that quality assessment will not focus on the true preferences of residents.

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[2] At 3 August 2017, there were 10 facilities with sanctions applied and 21 with notices of non-compliance from a national total of 2669 residential aged care facilities – equating to 1.1% of facilities with any compliance activity.
[3] Australian Aged Care Quality Agency *Annual Report 2015-16*, p.3
[4] Atul Gawande on facing death, ABC Health report, Monday 22 June 2015 4:43PM. edited transcript of a conversation between Atul Gawande and Norman Swan at the Sydney Writers' Festival http://www.abc.net.au/radionational/programs/healthreport/atul-gawande-on-facing-death/6564010

b) the adequacy and effectiveness of complaints handling processes at a state and federal level, including consumer awareness and appropriate use of the available complaints mechanisms;

Evidence available suggests that consumers are aware of available complaints mechanisms in aged care. For example, figures released by the Aged Care Complaints Commissioner show that, in the March 2017 quarter, there were 142 more complaints than in the March 2016 quarter (from 1041 to 1183)[5]. As this period coincides with a number of activities raising awareness about complaints processes in aged care (not least of these being the work of the Aged Care Complaints Commissioner to raise awareness about the Commissioner's role), it suggests that consumers are aware of their options for complaints.

However, there may be scope for improvement in the interaction between State and Federal complaints handling processes.

On a broader note, complaints handling is likely to be more effective when it is approached with the intent of arriving at a positive resolution rather than a regulatory action. If regulatory action is emphasised, it can lead to reduced communication between providers and regulators, and potentially to an unnecessarily adversarial relationship. Conversely, if the focus of complaints is on achieving positive outcomes for stakeholders, it can assist in developing an environment in which providers, consumers and government bodies are more able to work constructively and collaboratively in determining areas for service improvement.

c) concerns regarding standards of care reported to aged care providers and government agencies by staff and contract workers, medical officers, volunteers, family members and other healthcare or aged care providers receiving transferred patients, and the adequacy of responses and feedback arrangements;

Anecdotally, feedback arrangements are not always considered adequate by those raising concerns. Privacy considerations limit the information that can sometimes be provided to third parties regarding care. There may, however, be scope to review feedback provide to complainants regarding the progress or resolution of their complaint; this may also align to the suggestion against (b) above to focus on positive resolution of complaints as a means of fostering greater openness.

d) the adequacy of medication handling practices and drug administration methods specific to aged care delivered at Oakden;

ACIA is not in a position to comment specifically on care provision at Oakden.

[5] https://www.agedcarecomplaints.gov.au/quarterly-reports/

e) the adequacy of injury prevention, monitoring and reporting mechanisms and the need for mandatory reporting and data collection for serious injury and mortality incidents;

AACQA indicates that it currently adopts a risk-based approach to monitoring, with unannounced visits a key monitoring tool. For example, the AACQA website notes that:

> *Unannounced assessment contacts are conducted as part of our ongoing role in monitoring homes and their performance against the Accreditation Standards.*
>
> *Every home will receive at least one unannounced assessment contact each year.*[6]

The draft Cost Recovery Implementation Statement 2018/19, expanding cost recovery activity to unannounced visits, notes that:

> *The Quality Agency's applies a regulatory 'case management' approach to ensure that quality assessment activities protect the health and safety of care recipients, while minimising unnecessary compliance burdens. Under regulatory case management operators with higher risk activities or with a history of poor performance are subject to more compliance monitoring oversight and compliance assistance education to assist continuous improvement.*
>
> *…*
>
> *Unannounced visits are an important part of the Quality Agency's compliance monitoring framework.*[7]

However, ACIA has two areas of concern with these statements:

1. It is not immediately apparent that AACQA does, in fact, adopt a risk-based approach to determining the frequency of unannounced visits to residential aged care facilities. AACQA's 2015-16 Annual Report indicates that there were 2678 residential aged care services as at 30 June 2016, and that 2866 unannounced visits were conducted in the 2015/16 financial yea[8]r; given the policy requirement that every home receive at least a singled unannounced visit each year[9], this indicates only 188 visits above the minimum were conducted.

   Similarly, the target for unannounced visits per aged care home per year is simply "≥1"[10] – suggesting little weight is put on the risk-based aspect of visit determination.

2. ACIA has not seen definitive evidence supporting the effectiveness of unannounced visits as a quality assurance tool. The Aged Care Standards and Accreditation Agency

[6] http://www.aacqa.gov.au/providers/residential-aged-care/copy_of_processes/unannounced-visits
[7] Australian Aged Care Quality Agency *Cost Recovery Implementation Statement 2018/-19*, p.3
[8] Australian Aged Care Quality Agency *Annual Report 2015-16*, p.11
[9] *Ibid.*
[10] Australian Aged Care Quality Agency *Annual Report 2015-16*, p.47

Ltd identified a range of potential risk factors associated with a change in compliance status[11]:

a. Change in ownership
b. Change in key personnel/sudden loss
c. Change in systems or processes
d. Building program/relocation
e. Rapid growth in resident numbers
f. Rapid change in resident needs
g. Change in strategic direction
h. Industrial disputation

It should be noted that these factors are not risks in themselves, but are potential triggers for risk if not appropriately managed and monitored. AACQA does not seem to give prominence to these factors as potential indicators of quality challenges in aged care[12].

ACIA believes that establishment of consistent data on serious injury (such as falls) and mortality in aged care would assist in tracking changes in service provision and resident need. However, given the complexity of aged care, it is important that published information not promote misunderstanding.

The recent study led by Prof. Joseph Ibrahim into preventable deaths in aged care suggested that collection of data on preventable death should be the first step in developing a policy framework in response[13]. ACIA supports development of a consistent dataset on aged care outcomes to inform understanding of industry trends and policy development.

f) the division of responsibility and accountability between residents (and their families), agency and permanent staff, aged care providers, and the state and the federal governments for reporting on and acting on adverse incidents; and

It does not seem reasonable to impose responsibility for reporting and acting on adverse incidents to residents or their families – in a sector like aged care, that is complex, highly regulated and requires significant technical understanding, these responsibilities are best borne by providers, staff and government. Of course, this does not mean residents and their families should not report incidents of which they become aware – it means that they should not be expected to be a primary source of reporting or response.

[11] The Aged Care Standards and Accreditation Agency Ltd *The Standard Special Edition 2010*, p.12 http://www.aacqa.gov.au/about-us/copy_of_Specialedition10yearsaccreditation.pdf/view
The Aged Care Standards and Accreditation Agency Ltd *The Standard September 2007*, p.6 http://www.aacqa.gov.au/about-us/TheStandardSeptember2007.pdf/view
[12] E.g., Australian Aged Care Quality Agency 2015, *Let's Talk About Quality*, p.43 http://www.aacqa.gov.au/providers/promoting-quality/lets-talk-about-quality
[13] Joseph E Ibrahim, Lyndal Bugeja, Melissa Willoughby, Marde Bevan, Chebiwot Kipsaina, Carmel Young, Tony Pham and David L Ranson (2017). 'Premature deaths of nursing home residents: an epidemiological analysis', Med J Aust 2017; 206 (10): 442-447.

The current structure of reporting responsibilities laid out in the *Aged Care Act 1997* provides a reasonable framework – aged care providers are required to notify the Department of Health of alleged or suspected assaults against residents, and to ensure that staff report alleged or suspected assaults to the provider, to the Department, or to police (s63-1AA).

The *Accountability Principles 2014* do provide an exception to this mandatory reporting regime if the alleged or suspected assault was perpetrated by a resident with dementia (s53).

Thinking broadly about reporting and response arrangements for adverse incidents, as noted against (b) above, complaints handling is likely to be more effective when it is approached with the intent of arriving at a positive resolution rather than a regulatory action.

An environment of cooperation and constructive engagement with aged care providers is more likely to encourage reporting of incidents than an environment characterised by regulatory responses.

g) any related matters.

Incorporation of consumer reviews into aged care presents a conceptual challenge: the views and experiences of aged care consumers are obviously important inputs in assessing quality of care, but consumers are often not well-placed to assess all aspects of their care experience.

Effective and appropriate use of consumer views, therefore, requires identification of those areas in which consumers' views are able to provide insight into care quality. ACIA supports the appropriate use of consumer views, reflecting the importance of person-centred care and the consumer experience. At the same time, ACIA believes it is important for the wellbeing of older people that objective standards are applied in assessment of technical aspects of care provision.

Putting aside this conceptual challenge, ACIA has concerns about AACQA's publication of consumer views on a triennial basis. The reality of aged care is that, without appropriate management and leadership, care quality can change significantly in a short time. Information regarding care quality can thus quickly become out of date. Publication of consumer interview results up to three years old runs the risk of providing prospective aged care consumers with outdated information when considering care options; it would be perverse if, under the guise of informing consumers, publication of outdated reviews ended up being a source of misinformation.