



## **Aged Care Complaints Commissioner submission to the Senate Community Affairs Legislation Committee Inquiry into the:**

- ***Aged Care Quality and Safety Commission Bill 2018, and***
- ***Aged Care Quality and Safety Commission (Consequential Amendments and Transitional Provisions) Bill 2018***

The Aged Care Complaints Commissioner (Complaints Commissioner) supports the establishment of a new Aged Care Quality and Safety Commission (the Commission) which strengthens our ability to protect older Australians. We thank the Senate Committee for the opportunity to comment on the *Aged Care Quality and Safety Commission Bill 2018* and associated Consequential Amendments and Transitional Provisions Bill. The Complaints Commissioner would be happy to provide any additional information that is required by the Committee as this Inquiry progresses.

### **Establishment of a Quality and Safety Commission**

For the first time, the Commission will bring together aged care quality, complaints and compliance functions in one independent agency focused specifically on ensuring quality of aged care and services. This initial Bill will start that process by combining the functions of the Australian Aged Care Quality Agency (Quality Agency) and the Complaints Commissioner from 2019 and provides a solid regulatory foundation to respond to any relevant outcomes of the upcoming Royal Commission.

The Complaints Commissioner's dual role as best practice complaints manager and educator will be maintained and strengthened under the Commission, as there will be broader opportunities to combine and use data and other information to educate people, including consumers and providers, in the pursuit of quality aged care. The Complaints Commissioner also welcomes the capacity for the Commission to make certain information publicly available, including information about the approved provider's performance. This provides greater opportunities for transparency in the quality of care that is delivered.

### **Consultation on the Bills**

The Complaints Commissioner has been closely consulted in the development of these two Bills and is supportive of the proposed legislation. The Complaints Commissioner thanks the Department of Health (the Department) for its inclusive approach to engaging with us, the Quality Agency and sector representatives as part of the development process.

### **Maintaining independence in complaints handling**

The new Commission is an independent entity. This maintains the independence of complaints and quality from the funder and providers of aged care, while ensuring a move towards greater coordination of aged care regulatory arrangements. This is consistent with recommendations of the Productivity Commission and more recently the Review of National Aged Care Quality Regulatory Processes undertaken by Ms Kate Carnell AO and Professor Ron Paterson ONZM.

Importantly, the capacity is retained and enhanced for timely information sharing between complaints, quality and compliance functions which is essential to ensure appropriate action is taken where care fails. The new Commissioner and the Secretary of the Department will continue to be able to exchange information where this is required in relation to their functions or powers.

### **Impact on the way complaints are handled**

This Commission will still be able to utilise a set of complaints resolution tools ranging from working relatively informally and directly with the parties (73 per cent of complaints were resolved in 30 days, and 93 percent of complaints resolved within 90 days in 2017-18), through to conciliation meetings, site visits and investigations as well as the ability to issue formal directions requiring action by providers.

The Commission will no longer have to refer matters to the Quality Agency where there are systemic concerns, or there is a need for an urgent assessment or audit, and it won't have to refer non-compliance to the Department - as once the transition is complete, all those functions will be held by the Commission itself. This also means we will also have more timely access to information currently held by the Quality Agency and compliance to inform our risk assessments of complaints.

Authorised complaints officers will retain the powers they currently hold to enter aged care premises to undertake site visits, which may be unannounced. This includes residential aged care services as well as the provider's premises for home care programs.

These arrangements are not new to aged care providers and all providers should be aware of their existing responsibility to cooperate with authorised complaints officers as well as other regulatory officials.

### **Advisory Council**

The Complaints Commissioner welcomes the continuation of an advisory council under the proposed legislation, which while new for us, has been an important source of advice for the Quality Agency. The Complaints Commissioner is an ex officio member of that council.

It will allow us to build on the foundations of the Aged Care Complaints Consultative Committee which has been instrumental in advising us over the past few years in the strengthening of our complaints and education functions.

### **Transitional arrangements**

*The Aged Care Quality and Safety Commission (Consequential Amendments and Transitional Provisions) Bill 2018* provides important provisions for ensuring we are able to continue to manage complaints from the time the new legislation takes effect.

We are working closely with the Quality Agency and the Department to ensure that people can still easily find us and make complaints as they always have, by telephone, email or an online form.

Authorised complaints officers who have a current appointment by the Complaints Commissioner will be able to exercise their current powers from the first day of operation.

People with open cases during the transition, both consumers and providers, will be updated about the change prior to Christmas, and their cases will continue under transitional arrangements in the legislation.

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