



**LASA**  
LEADING AGE SERVICES  
AUSTRALIA  
*The voice of aged care*

SUBMISSION TO AGED CARE AMENDMENT  
(AGED CARE RECIPIENT CLASSIFICATION) BILL  
2020

23 November 2020

*A strong voice and a helping hand  
for all providers of age services*

## Leading Age Services Australia

Leading Age Services Australia (LASA) is a national association for all providers of age services across residential care, home care and retirement living/seniors housing. Our purpose is to enable high performing, respected and sustainable age services that support older Australians to age well by providing care, support and accommodation with quality, safety and compassion – always.

LASA's membership base is made up of organisations providing care, support and services to older Australians. Our Members include private, not-for-profit, faith-based and government operated organisations providing age services across residential aged care, home care and retirement living. 55% of our Members are not-for-profit, 37% are for-profit providers and 8% of our Members are government providers. Our diverse membership base provides LASA with the ability to speak with credibility and authority on issues of importance to older Australians and the age services industry.

## Effect of the Bill

Currently, people in residential aged care must have their needs assessed and classified for funding purposes by their residential aged care provider.

This Bill would allow the assessment and classification of people in residential care to be undertaken by the Secretary of the relevant department administering the Act or their delegates.

This is one component of broader reforms to residential aged care funding.

## Provider concerns

External assessment is a significant change to the way that funding for care is currently allocated. Aged care providers are deeply concerned that this gives the Government control of another element of aged care funding – and that this control will be used to achieve fiscal objectives at the expense of ensuring older people in care receive the necessary level of support.

Providers are intensely conscious of previous decisions to pause indexation or adjust the classification tool which were ostensibly motivated by providers over-claiming – whereas independent evidence now clearly shows a dramatic rise in frailty and complex health needs over this period.<sup>1</sup>

Even with the best of intentions, there are significant risks associated with external assessment, including delays in assessment, inconsistency, non-transparency and access to a much narrower range of information about a person's needs.

## Parliamentary endorsement of new approach to assessment should be conditional

Provider support for external assessment is conditional on other elements of residential aged care funding reform.

There is broad agreement that the existing Aged Care Funding Instrument has serious short-comings, but many critical issues remain unresolved regarding the proposed Australian National Aged Care Classification (AN-ACC) and the accompanying funding model.

We are concerned that this Bill allows Government to move forward with its priority (taking control of the assessment process) without any accountability or broader commitments to funding reform.

## Weighing up the risks of delaying passage

Ideally, this Bill should be part of a broader commitment to aged care reform.

Our understanding is that the Government is seeking to pass this Bill to enable the shadow assessments that it plans to conduct in 2021 to be used for the commencement of a new residential aged care funding model in 2022.

We are sceptical that prospective legislative authority is required to allow the shadow assessments to be used as the starting point for a new funding scheme. Ideally, this could be addressed with

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<sup>1</sup> <https://pubmed.ncbi.nlm.nih.gov/32359019/>

appropriate transitional provisions as part of comprehensive commitment to reform following the Royal Commission final report.

Notably – our understanding is that the shadow assessments would not be open to challenge and review, which is problematic if these will form the starting point for future residential aged care funding.

## Conditions if immediate passage is necessary

If immediate passage is necessary to enable shadow assessments, there are still a number of commitments that should be sought from Government prior to parliament agreeing to its passage.

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- **Indexation based on independent annual cost studies:** A critical element of the model proposed in the AN-ACC consultation paper is that annual changes in the cost of care would be based on annual studies measuring actual changes in cost. This creates a vital link between the cost of care (including the expectations of the standards and changes in wages) and the funding which is allocated. We are deeply concerned that Government is seeking to proceed with the external assessment component of AN-ACC without also making a commitment to independent annual cost studies.
- **Transparent, timely, accurate and accountable assessment:** An assessment of residents' care needs that is accurate, consistent, timely and transparent is the foundation for care delivery that meets residents' physical, medical, social, intellectual, emotional and spiritual needs. Assessors' consistent accuracy of assessment must be carefully monitored and managed. This is important because assessors cover residential facilities across particular regions. If an assessor in one region rates care needs consistently lower than an assessor in another region then residents and providers in the region with consistently lower ratings end up short changed. Assessors consistently delivering above or below average ratings should be monitored and managed. Also monitored across the entire assessment workforce should be assessors' interrater reliability, client and provider satisfaction with their service and timeliness – with regular publication of performance against targets.
- **Widen criteria for re-assessment** Criteria for the re-assessments of residents' care needs should be developed that take account of the actual development of increased care need. The AN-ACC proposes three grounds for the reassessment of residents' needs<sup>2</sup>: (1) significant hospitalization (2) significant change in mobility causing the resident to move to another mobility branch and (3) after standard time period<sup>3</sup>. LASA observes that care needs can increase significantly for reasons other than the three criteria above. For example, medical (e.g. combination of co-morbidities) behavioural or mental health reasons may be significant drivers for an increased need for care. For this reason, criteria for re-assessment should be developed that account for well-accepted causes of increases in care need that are sufficient to warrant re-assessment.
- **Processes to challenge an assessment** Care recipients, their appointed advocates and providers should be able to challenge an assessment via a body independent from the Federal Government. The process of challenging an assessment should be free-of-charge, quick and universally accessible for care recipients, their appointed advocates and for

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<sup>2</sup> The Resource Utilisation and Classification Study (RUCS) Report 2: The AN-ACC assessment model, p. 23

<sup>3</sup> After 12 months for people with anticipated lower mortality, after 6 months for people with anticipated higher mortality.

providers. It should include the option of presenting evidence not considered in the standard assessment tool. LASA notes that the Bill does not offer an avenue for quick and efficient review of care classification by an independent body. The Bill under Division 29D includes the note that

*A decision not to reclassify a care recipient is reviewable under Part 6.1.*

Part 6.1 of the *Aged Care Act 1997* lists the range of decisions that are reviewable by the Secretary and Section 85-6 identifies that the classification of a care recipient can be submitted for reconsideration, but for a fee. The provisions for review in the *Act* should be updated to reflect the structural change to the assessment process to an external assessment and embed procedural fairness for decision-takers. Further, under Section 85-8 of the *Act*, if a provider wishes to challenge the Secretary's review decision, the only avenue for independent review is the Administrative Appeals Tribunal. LASA considers the lack for easily accessible, independent review to be a serious omission. This is particularly the case in view of Section 29C-8 which enables the use of computer programs to make decisions on the classification of care recipients.

- **Residents' AN-ACC classification not known to providers prior to admission** The AN-ACC system is designed not to let providers know prospective residents' AN-ACC classification of care needs prior to their admission to residential care. The purpose of this design is to prevent providers from 'cherry-picking' residents. However, LASA considers it important that providers know a resident's classification prior to admission to ensure that staff numbers, skill and equipment are available to deliver the care needed. For example, bariatric residents require staff numbers and specialized equipment for their care and providers need to be assured that they have the human and material resources at hand to deliver this care. LASA is of the view that the best way to avoid 'cherry-picking' is to have assessment systems and assessors that accurately classify residents' care needs. If providers' trust in the assessment system cannot be established, providers will seek to address the financial and operational risks to their business by 'cherry picking' residents.
- **Stop-loss** The AN-ACC consultation paper proposed a stop-loss arrangement for providers. A significant reduction in care income occurring upon the introduction of a new funding scheme is likely to have serious negative consequences for a service and its staff and residents. There must be a commitment to a stop-loss regime to proceed with the AN-ACC.

## Broader issues

Broader issues that likely cannot be resolved unless the Bill can be delayed until the overall response to the Royal Commission on Aged Care Quality and Safety include: the overall level of residential aged care funding – particularly with reference to what would be required to meet new staffing requirements; adjustment of the classification system to recognise the additional care needed for people with dementia and other forms of cognitive impairment; a broader mechanism for prospectively funding practice improvements.