Australian Council of Social Service

Submission to the Aged Care Taskforce

Department of Health and Aged Care

31 August 2023

About ACOSS

The Australian Council of Social Service (ACOSS) is a national voice in support of people affected by poverty, disadvantage and inequality and the peak body for the community services and civil society sector.

ACOSS consists of a network of approximately 4,000 organisations and individuals across Australia in metropolitan, regional and remote areas.

Our vision is an end to poverty in all its forms; economies that are fair, sustainable and resilient; and communities that are just, peaceful and inclusive.

Summary

ACOSS welcomes the opportunity to provide a submission to this process. We strongly urge the Taskforce to commit to free, quality aged care services at home and in nursing homes. Accommodation and other ancillary services could still attract charges. Services should be benchmarked to robust quality standards enforced by an effective regulatory body.

The latest projections for the next 40 years show a significant growth in expenditure on aged care services for the Federal Government, as Australia's population ages. This creates a major fiscal challenge in funding quality care. At the same time, the cost of superannuation tax concessions is projected to increase unsustainably as the population ages and superannuation holdings continue to grow.

The Taskforce will have to consider recommendations that address major inadequacies in the country's revenue base. It will not be possible for future governments to properly fund aged care and health services, and to address the systemic inadequacies revealed by the Royal Commission, while only 16% of older people pay income tax.[1]

We recommend the introduction of a 15% aged care levy on superannuation fund earnings post-retirement. We estimate that the impact on the Federal Budget will be $2,500 million in 2024-25. Whilst this is politically challenging,

[1] Coates B (2018), 'The entitlement of age', Grattan Institute.

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the approaching fiscal cliff for the Federal Government is more daunting with a more detrimental impact in the longer-term.

The Taskforce should also acknowledge the need for a more sophisticated role for the Federal Government in designing and delivering aged care services, not just as a funder.

1. Introduction

ACOSS welcomes the opportunity to provide a submission to this consultation. We commend Minister Wells for establishing the Aged Care Taskforce (the Taskforce) to review funding arrangements for aged care and to develop options for a system that is fair and equitable for people living in Australia.

People, including service users, families and carers, are rightly concerned about the deficiencies in aged care revealed by the recent Royal Commission Inquiry. Community concern relates not only to the quality of services but the additional personal cost, including high out-of-pocket expenses such as large up-front deposits for residential care. These concerns have led many people to avoid drawing down their retirement savings, reducing their enjoyment of retirement while they are still healthy, in case they need to pay for essential health and aged care services later in life. The result is larger bequests instead of improved living standards in retirement.[2] This, in itself, creates major social and economic challenges for the Federal Government, and indeed the Taskforce, to address.

Our submission is focused on two of the proposed Aged Care Funding Principles[3]:

- Principle 2 – Aged care funding arrangements and their outcomes should be fair, simple, transparent and sustainable.

- Principle 3 – Government is and will continue to be the major funder of aged care. Government funding should be focused on care costs. Personal contributions should be focused on accommodation and everyday living costs with a sufficient safety net.

We agree that Government is and will continue to be the major funder of aged care, as stated in draft Principle 3. Additionally, ACOSS strongly believes that aged care services, whether at home or in aged care homes, should be available to all free of charge. Accommodation and other ancillary services could still attract charges. Services should be benchmarked to robust quality standards enforced by an effective regulatory body.

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[2] Commonwealth Treasury, *Retirement Income Review, Final Report*, July 2020.

[3] Department of Health and Aged Care, Aged Care Taskforce.

We also recognise that aged care is one of the largest and fastest growing expenditure items for the Federal Government driven by significant demographic shifts in Australia's population. The latest Intergenerational Report (IGR) projects the Federal Government's contributions to aged care to be one of the five fastest growing large payment categories over the next forty years, with an average annual growth rate of over 6 per cent.[4] Federal spending on aged care is projected to increase as a proportion of GDP from 1.1 per cent in 2022–23 to around 2.5 per cent in 2062–63. This is caused mainly by projected increases in spending on residential care, in line with the growth in the number of people aged 80 and over. Over the next 40 years, the number of people aged 65 and over will more than double, and the number aged 85 and over will more than triple.[5] The growth in costs as a proportion of GDP and per person will increase more steeply as the population ageing becomes more pronounced.[6]

Similarly, there are serious concerns with the standard of care in the system. For example, research undertaken for the Royal Commission in October 2020 demonstrated that only around one-quarter of the people living in a residential aged care facility or receiving a home care package feel that their care needs are always met.[7] Aged care facility residents are most commonly concerned about staffing, which includes lack of staff, call bells not being answered, high rates of staff turnover, inadequate training, and agency staff not knowing the resident or their needs.[8] Raising the standard of care will also require public investment.

The Federal Government has regularly acknowledged the fiscal pressures created by these and other trends. The IGR forecasts that the Federal Budget will remain in deficit from 2023-23 to 2062-63.[9] However, in the immediate decade, expenditure on most Commonwealth programs is projected to decline as a share of GDP, reflecting chronic under-funding of essential services and consequently substantial levels of unmet need for essential services in the community.[10]

Funding quality aged care services requires the identification of additional measures for the Federal Government. While this is considered politically challenging, the breadth and depth of the fiscal cliff, as articulated in the IGR,

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[4] Australian Government, *Intergenerational Report 2023: Australia's future to 2063*, August 2023, page 130-131

[5] Australian Government, *Intergenerational Report 2023: Australia's future to 2063*, August 2023, page viii

[6] Australian Government, *Intergenerational Report 2023: Australia's future to 2063*, August 2023, page 160.

[7] Royal Commission into Aged Care Quality and Safety, 'What it's like for people inside the aged care system', 21 October 2020.

[8] Royal Commission into Aged Care Quality and Safety, 'What it's like for people inside the aged care system', 21 October 2020.

[9] Australian Government, *Intergenerational Report 2023: Australia's future to 2063*, page 128

[10] ACOSS, Federal Budget Priority Statement 2023-24, page 55.

makes finding targeted and substantive solutions an imperative. Currently, Australia has a deep, structural problem with its current revenue base. Australia is the ninth lowest-taxing country among 36 OECD nations. All levels of government collect 29% of GDP in tax compared with an average of 34.1% among wealthy nations. Contrary to claims that Australia relies too heavily on income taxes, personal income tax revenue is also lower than the average for wealthy nations (11.4% of GDP in 2017 compared with an OECD average of 17%) when we take account of social insurance taxes.[11]

The Taskforce will have to consider recommendations that address major inadequacies in the country's revenue base. It will not be possible for future governments to properly fund aged care and health services, and to address the systemic inadequacies revealed by the Royal Commission, while only 16% of older people pay income tax.[12]

ACOSS believes that there are responsible, reasonable and targeted options to fairly raise additional Commonwealth revenue to fund aged care which provides elderly people with a dignified and decent life. This requires addressing Australia's extraordinarily generous tax treatment of superannuation after retirement, especially for people with substantial personal worth.

Given that, we recommend that the Taskforce:

1. advise the Federal Government to commit to free, quality aged care services (net of accommodation and ancillary services), benchmarked to robust quality standards enforced by an effective regulatory body; and

2. recommend that the Federal Government introduce a 15% levy on superannuation fund earnings after retirement to fund an aged care service guarantee. This Levy would involve the following:
   a. The 15% tax on fund earnings in the accumulation phase should be progressively extended to the pension phase over a three-year period from 1 July 2024 (with a 5% increase each year).
   b. To simplify the system, the distinction between accumulation and pension phases should be phased out.
   c. The levy should be offset by a 15% rebate (minus any imputation credits) for people over preservation age whose income (including Age Pension, earnings, superannuation and other investment income) falls below their tax-free threshold. The rebate would be calculated each year by the

[11] OECD, *Revenue statistics*: 2022, *Taxing wages brochure.*

[12] Coates B (2018), 'The entitlement of age', Grattan Institute.

Australian Taxation Office (ATO) and transferred to a superannuation fund chosen by the taxpayer.

d. Opportunities to avoid or reduce tax on capital gains accrued during working life by holding assets in a self-managed super fund should be curtailed.

e. Transfers from superannuation accounts to the estates of deceased fund members should be taxed at the statutory rate of 17% without exception apart from transfers to spouses and dependent children.

f. Revenue collected from these measures (which would rise substantially in later years) should be earmarked for an *aged care service guarantee,* assuring free high-quality care (net of accommodation and ancillary services) at home and in nursing homes.

3. acknowledge the need for a more sophisticated role for the Federal Government in designing and delivering services, including alternatives to conventional market systems.

We outline these recommendations below.

2. Guaranteeing free, quality aged care

ACOSS believes that aged care services, whether at home or in aged care homes, should be available to all free of change. Accommodation and other ancillary services could still attract charges, but the care component of aged care services should be free, as is the case for public hospital treatment and care. Services should be benchmarked to robust quality standards enforced by an effective regulatory body. Achieving this outcome will require a significant public investment into the current system to improve the quality and universality of care.

The Royal Commission into Aged Care Quality and Safety had this to say about the state of aged care funding:

> *"Funding for aged care is insufficient, insecure, and subject to the fiscal priorities of the Australian Government of the day. For several decades, one of the priorities for governments dealing with the aged care system has been to restrain the growth in aged care expenditure in light of demographic changes. This priority has been pursued irrespective of the level of need for care, and without sufficient regard to whether the funding is adequate to deliver high quality and safe care. The consequence of these funding arrangements for older people is that they may not be able to access care when they need it due to rationing of services, and when they do access care, funding may not be sufficient to meet the cost of providing the high-quality care they need. The current state of Australia's aged care system is a predictable outcome of these*

measures to limit expenditure and ignore the actual cost of delivering aged care."[13]

Given that, it is unsurprising that the Royal Commission concluded at least 1 in 3 people accessing residential aged care and home care services have experienced substandard care, with systemic concerns over understaffing, unanswered call bells, as well as assaults and professionally negligent care.[14]

Australia has a longstanding principle to provide universal, essential health care services, so that decent care is available to everyone, regardless of their means. Such services have traditionally been provided either free of charge (such as public hospitals), or at modest cost (such as General Practitioner consultations). It is critical this principle is extended to the aged care system.

Whilst providing free and essential healthcare, affordable fees may be charged for certain ancillary services, such as accommodation and transport and home maintenance. These tend to be services which people already pay for in their lives. Where such fees apply, they should be carefully designed so that:

- everyone can afford them, including people on maximum-rate income support payments,
- they are transparently calculated and set at reasonable levels, no greater than the cost of equivalent services provided through private markets. For example, a room in an aged care facility should cost much less than rent or purchase of a similar dwelling in the same locality, and
- they do not become a de-facto charge for care services.

Designing the aged care system on these principles provides a range of benefits to government, service providers and people accessing services, including:

- reducing the risk of cost shifting to users or between governments, at the expense of quality care, between nursing home and hospital care, which arises if one is fully funded by government and the other is not.
- curtailing the danger that older people who require care at home will avoid using the necessary services because they are too expensive, which can ultimately increase demand for nursing home care through a deterioration of individuals' health.

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[13] Royal Commission into Aged Care Quality and Safety, *Summary of Final Report*, February 2021, page 74.

[14] Royal Commission into Aged Care Quality and Safety, *Summary of Final Report*, February 2021, page 72.

- reducing the likelihood of a two-tier care system where high-quality care is only accessible for those able to pay the most.

- reducing the risk of excessive and counter-productive service user charges being introduced in the future, by not imposing them in the first place.

- alleviating worries among older people that they will not be able to 'afford' later-life care. These fears are a major reason for older people's reluctance to draw down their superannuation to fund a decent retirement, impacting their quality of life and funnelling substantial taxpayer-supported retirement savings into bequests.

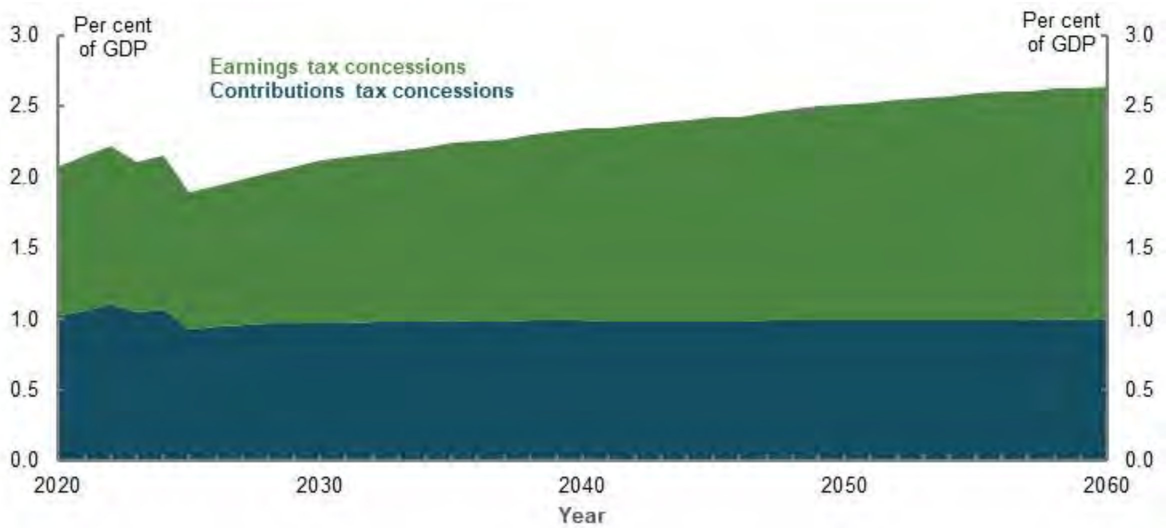
Recommendation 1: The Taskforce commit to free, quality aged care services. Accommodation and other ancillary services could still attract charges. Services should be benchmarked to robust quality standards enforced by an effective regulatory body.

3. Addressing fiscal pressures to fund aged care services

As outlined earlier, Australia has a major challenge with its revenue base to fund essential services, and aged care will remain one of the main expenditure items for the Federal Government for the next forty years. There are prudent measures for the Taskforce to consider to address this challenge.

The fiscal cost of tax concessions for superannuation, especially post-retirement tax concessions, is projected to rise substantially as the population ages and the superannuation system matures, from 2.1% of GDP in 2020 to 2.6% in 2060 (see Figure 1). Over the same period, growing public expenditures on health and aged care will put more pressure on Commonwealth budgets.

Figure 1: Projected cost of superannuation tax concessions (per centage of GDP)[15]



The tax treatment of superannuation after retirement is extraordinarily generous, especially for people with substantial wealth. The recent report from Anglicare Australia, *A Costly Choice*, found that the Australian Government forgoes $44 billion in revenue because of tax concessions on superannuation earnings and contributions, with 58 percent of the financial benefit going to the top 20 percent of income earners.[16]

It is not widely understood that in addition to the exemption from income tax of superannuation benefits (lump sums and pensions), the investment income of a superannuation fund is no longer taxed once it pays a pension to a fund member. In contrast, during the so-called 'accumulation phase' interest, dividends and capital gains accruing to super funds are taxed at 15% (10% for capital gains).

Re-contribution strategies (where a member receives a superannuation payment and makes contributions in the same year, churning their income through super) have blurred the artificial distinction between accumulation and pension phases of superannuation. In this way, the non-taxation of superannuation fund earnings post-retirement is an anomaly, since fund earnings up to that stage are taxed at 15% and recontribution strategies render the distinction between the two phases almost meaningless. As the Henry Report recommended in 2010,

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[15] Commonwealth Treasury, *Retirement Income Review, Final Report*, July 2020.

[16] Anglicare Australia, *A Costly Choice: Tax cuts, concessions, and widening inequality*, March 2023.

that distinction should be removed, and the same tax rate should apply to super fund earnings before and after retirement.[17]

The tax exemption for the investment income of super funds in the so-called pension phase opens up many tax avoidance opportunities. People can avoid paying tax on capital gains accrued through working life by transferring or retaining assets in a self-managed superannuation fund until they reach the age of 60 and the fund pays them a pension, at which point the fund's earnings, including capital gains, are tax free. Small business owners can transfer assets into their super fund tax free, taking advantage of the Capital Gains Tax (CGT) rollover for small business assets used for retirement. Further, the 17% tax on superannuation assets transferred to a deceased estate can be avoided by shifting savings from pension to accumulation accounts. This undermines the purpose of superannuation, to support a decent retirement rather than bequests to adult children.

4. Creating a levy for universal, quality aged care services

To guarantee free, quality aged care, ACOSS recommends that a 15% aged care levy should apply to the investment income of superannuation funds after retirement. If the levy is introduced, the proceeds would be allocated to aged care services, to guarantee a decent standard of care for all who need it, without user charges.[18]

ACOSS believes that the introduction of such a levy offers considerable advantages to the longer-term viability of the aged care system. It would work in similar fashion to the introduction of the Medicare Levy that helps fund free public hospital care and affordable primary care services. It would improve intergenerational equity by ensuring that the current generation of older people would always contribute to the cost of their aged care. It would also mean that funding for essential care services would be pooled through government, equitably sharing both the costs and the risks. Crucially, it would ease concerns among retired people about whether they can 'afford' decent in-home and/or residential care when they need it later in life.

On economic grounds, our proposal would provide a sustainable and timely source of additional funding for aged care, since revenue increases would match demand for services as the population ages.

Further, a levy would simplify the tax treatment of superannuation, since fund earnings in the accumulation phase are already taxed at that rate. Importantly, the levy would not apply to superannuation *benefits* (lump sums or pensions),

[17] Henry K et al, *Australia's future tax system review final report*, Commonwealth Treasury, May 2010: Tax avoidance through re-contribution strategies was addressed in part by the previous Government's decision in 2016 to apply the 15% tax rate to the investment income of Transition to Retirement accounts.

[18] Accommodation and other services would still attract charges, but the care component of aged care services would be free, as is the case for public hospital treatment and care.

only the *annual returns to investment* of superannuation funds (such as interest, dividends and capital gains) in retirement phase. As such, it would not be a form of retrospective taxation. Only *future investment returns* would attract the levy.

Similarly, the non-taxation of superannuation fund earnings in retirement phase is unfair and inequitable, since it disproportionately benefits the wealthiest and opens up tax avoidance opportunities, such as avoidance of Capital Gains Tax on assets purchased long before retirement.

We believe that this proposal closely aligns with draft Principle 2 – Aged care funding arrangements and their outcomes should be fair, simple, transparent and sustainable.

We appreciate reform of this kind is politically challenging. However, the challenge is dwarfed by the major fiscal pressures faced by the Federal Government, not least of which the unsustainability of superannuation tax concessions that will rise exponentially as the population ages and superannuation holdings continue to grow. Given this scenario, the levy is more reasonable, responsible, appropriate and equitable than other options. We estimate that the impact on the Federal Budget will be $2,500 million in 2024-25.

ACOSS acknowledges there are other options instead of applying the proposed levy. For instance, the government could quarantine a proportion of individual superannuation accounts as a way to guarantee funding or impose a levy on all income taxpayers generally to meet future health care costs. However, both proposals would disproportionately disadvantage current taxpayers versus those currently accessing aged care services, and would unnecessarily risk a tiered aged care system where wealthier individuals could access better services.

Recommendation 2: The Taskforce recommend that the Federal Government introduce a 15% levy on superannuation fund earnings after retirement to fund an aged care service guarantee. This Levy would involve the following:

a. The 15% tax on fund earnings in the accumulation phase should be progressively extended to the pension phase over a three-year period from 1 July 2024 (with a 5% increase each year).
b. To simplify the system, the distinction between accumulation and pension phases should be phased out.
c. The levy should be offset by a 15% rebate (minus any imputation credits) for people over preservation age whose income (including Age Pension, earnings, superannuation and other investment income) falls below their tax-free threshold. The rebate would be calculated each year by the Australian Taxation Office (ATO) and transferred to a superannuation fund chosen by the taxpayer.
d. Opportunities to avoid or reduce tax on capital gains accrued during working life by holding assets in a self-managed super fund should be curtailed.

e. Transfers from superannuation accounts to the estates of deceased fund members should be taxed at the statutory rate of 17% without exception apart from transfers to spouses and dependent children.

f. Revenue collected from these measures (which would rise substantially in later years) should be earmarked for an *aged care service guarantee,* assuring free high-quality care (net of accommodation and ancillary services) at home and in nursing homes.

5. Acknowledging a sophisticated role for government

Again, we agree that government is and will continue to be the major funder of aged care. As the Taskforce examines the funding implications, it must also recognise that the role of government in this service system needs to be more sophisticated than service funder and so called 'market steward'. This is because over time, government has typically failed to learn from its experience 'stewarding' markets, and has tended to repeat the same problems in different service areas.

In undertaking this work, the Taskforce should carefully examine the recent history of social service markets operating in Australia and contemporary research.

ACOSS strongly believes that government has an active and impactful role to perform to improve the quality of services beyond traditional contract management and rule-setting for providers. There must be a better framework for services than relying on the illusion of 'choice and control' for people using services. Instead, government should be ensuring people using services have a clear, ongoing and influential voice in care and support service systems, so that they can better shape the quality and type of services they access.

As the main funder and regulator of services, there is a role for government in improving the quality of services by facilitating better innovation, research and leading practice exchange between providers within a service system.[19] This includes identifying and benchmarking providers achieving positive and lasting outcomes for particularly vulnerable people accessing aged care services. These are important considerations for the ongoing work of the Taskforce in fairly funding aged care services.

Recommendation 3:

The Taskforce acknowledge the need for a more sophisticated role for the Federal Government in designing and delivering services, including alternatives to conventional market systems.

[19] Considine, Mark, *The Careless State: Reforming Australia's Social Services*, Melbourne University Press, 2022, pages 206-7.

6. Conclusion

We commend the Taskforce for its efforts to date, and look forward to staying engaged with the work of the Taskforce and would welcome further, ongoing engagement throughout this process.