

**Senate Finance and Public Administration
Committee Inquiry into Residential and
Community Aged Care in Australia**

**Statement of the Office of the Public Advocate – Queensland
7 April 2009**

Background

On 14 October 2008, the Senate referred to the Finance and Public Administration Committee (**Committee**) several issues concerning the funding, planning, allocation, capital and equity of residential and community aged care in Australia.

The Office of the Public Advocate (**OPA**) was invited to make a submission to the Committee. The OPA submitted a submission to the Committee on 21 January 2009.

The Public Advocate

The Public Advocate was created under the *Guardianship and Administration Act 2000* (Qld) (**GAA**) to provide systemic advocacy for adult Queenslanders with impaired decision-making capacity. Broadly, the role of the OPA is to protect and promote the rights and interests of adults with impaired decision-making capacity through systems advocacy.

Specifically, the functions of the OPA, as set out under section 209 of the GAA are:

- a) promoting and protecting the rights of adults with impaired capacity for a matter;
- b) promoting the protection of the adults from neglect, exploitation or abuse;
- c) encouraging the development of programs to help the adults to reach the greatest practicable degree of autonomy;
- d) promoting the provision of services and facilities for the adults; and
- e) monitoring and reviewing the delivery of services and facilities to the adults.

An adult is considered to have the capacity to make decisions when they are capable of:

- a) understanding the nature and effect of decisions about the matter; and
- b) freely and voluntarily making decisions about the matter; and
- c) communicating the decision in some way.

An adult whose capacity to make decisions is impaired may include a person with an intellectual disability, mental illness/psychiatric disability, acquired brain injury or dementia.

Overview

Whilst it is difficult to estimate the number of Queenslanders or Australians who live with a decision-making disability, it is estimated that currently 1% of the Australian population has dementia. In 2005, there were approximately 37,800 Queenslanders with dementia. By 2050, there will be as many Queenslanders with dementia (171,000) as there were in the whole of Australia in 2000.¹ It is reasonable to anticipate that a significant portion of this cohort are, or will be, involved within the aged care system.

In regard to mental health issues, intellectual disability and acquired brain injury, it is estimated that:

- a) 20% of the population will experience a mental disorder during their lifetime - around 3% will have a severe mental illness at any one time;
- b) people who have an intellectual disability comprise 2% of the total population (this figure includes people with mild, moderate or severe intellectual disability); and

¹ Access Economics, 'Dementia Estimates and Projections: Australian States and Territories' (Report by Access Economics for Alzheimer's Australia, 2005).

- c) in 2003, the incidence of people with acquired brain injury in Queensland was approximately 110,000 people².

While it is difficult to ascertain how many people within the aged care system are experiencing mental health issues, or have an intellectual disability or acquired brain injury, it would be reasonable to assume that it is not an insignificant portion.

It is reasonable to anticipate that as the population ages, there will be significantly increased calls for residential and community aged care services. The future of aged care is a matter requiring urgent attention if supply is to meet demand and for quality services to be maintained, especially for adults with impaired decision-making capacity.

Primary submission

It is a fundamental object of the *Aged Care Act*³ to ensure that aged care services are accessible to all who need those services. Under the current system persons with impaired decision-making capacity are a vulnerable group with challenging needs who often have limited financial resources to access services.

The primary purpose of this submission is to ask that in the course of undertaking a review of the funding, planning, allocation, capital and equity of residential and community aged care in Australia that the Federal government take into account the needs of those people with impaired decision-making capacity who will require residential or community aged care services now and in the future. This cohort of persons is particularly vulnerable and will often have complex care needs. It will include:

- a) those persons who lose capacity as a consequence of a condition which develops as they age (eg: dementia) (**Cohort A**); and
- b) those persons who have impaired capacity which may be lifelong as a result of an intellectual disability, acquired brain injury or mental illness but the symptoms of which can be further complicated by ageing (**Cohort B**).

It is expected that consumers needs and expectations with respect to aged care will change in the future. While many of the baby boomers may have funding to obtain the aged care services they need, there will still be a proportion of the population in Cohort A, and the majority of people in Cohort B, who will rely significantly on government funding to pay for the aged care services that they will require. It is to be noted that a large proportion of persons in Cohort B will, before they require aged care specific services, be to a large extent already reliant on government funded services to meet their needs. As this cohort ages, their needs will change and increase. It is reasonable to anticipate that the persons in Cohort B will have a complex set of needs and will require a higher level of service than the persons in Cohort A or persons who do not have impaired decision-making capacity but otherwise require aged care services.

Traditionally this cohort of persons with challenging needs and limited financial resources have been accepted into the not for profit services. However, as was identified in the Grant Thornton report⁴ "the not for profit sector indicated that their deteriorating financial position necessitated "more commercial" policies in relation to resident aged care admissions. This has often come at a cost to the financially and socially disadvantaged people in these programs."⁵

In determining the level of government funding that will be sufficient to ensure that the aged care industry is financially sustainable, the OPA submits that the government must take into account the likely needs of persons in Cohorts A and B. The OPA submits that the government should ensure

² Brain Injury Association Queensland, Australian Statistics on Acquired Brain Injury (2006) <http://www.biaq.com.au> at 30 March 2007.

³ *Aged Care Act 1997* (Cth) s2-1.

⁴ Grant and Thornton, *Aged Care Survey 2008* (2008).

⁵ Grant and Thornton, *Aged Care Survey 2008* (2008) 6

http://www.granthornton.com.au/files/aged_care_survey_2008-final.pdf accessed as at 2 April 2009

that any funding model takes into account the needs of this group of people, who are unlikely to have any capacity to contribute to the cost of their care, and ensures that adequate provision is made to ensure services are available to meet those needs in the future.

Funding must accurately reflect the real cost of providing day to day care to this group of people. Funding should also include capital funding incentives for approved providers to ensure that they continue to plan for the provision of services to Cohorts A and B in the future.

In making this submission, the OPA is not seeking to provide a response to all six questions posed by the Committee. The OPA's focus is on ensuring that any changes made to the current system of funding aged care services takes into account the residential and community aged care needs of adults with impaired decision-making capacity. **The ultimate aim should be a residential and community aged care sector which meets demand but which does not disadvantage those who are vulnerable.**

Response to Terms of Reference provided by the Committee

a) Whether current funding levels are sufficient to meet the expected quality service provision outcomes

The OPA makes the following broad observations:

- The actual cost of providing residential and community aged care services has not been established, which makes a determination regarding the adequacy of current funding levels difficult.
- The cost of the provision of care to Cohorts A and B is often likely to be greater than the cost of providing care to persons who do not have impaired decision-making capacity but otherwise require aged care services.
- The current levels of funding for the residential aged care sector are not sufficient to meet the demand for services at an appropriately high level of quality service, as required by the *Aged Care Act 1997* and the *Aged Care Principles*. This has been established through industry research⁶.
- Current funding levels for the residential aged care sector are not sufficient for service providers to invest capital to build new facilities – this will effect the capacity of the industry to meet future need.
- Concessional, supported and assisted regional resident ratios currently provide a measure of ensuring that approved providers must make provision for and provide services to a minimum number of concessional, supported and assisted residents.

Aged care in Australia is in a precarious position. Current government funding arrangements and regulation are negatively affecting the viability of the industry with subsidies being insufficient to meet the real cost of providing care and capital contributions inadequate to justify future capital expenditure by providers. Additionally, the industry is faced with significant increased labour costs, has been burdened with the cost of significantly increased government regulation and is faced with increased consumer demands both as to the standard and range of services expected. As a result of these factors, the viability of the sector is at risk now and the sector is unlikely to be able to meet demand in the future.

In Queensland, most residential aged and community care services are provided by large non-government organisations, providing residential and community aged care services as well as basic community care services. Participation of these non-government providers is dependent on government subsidy. The continued participation of the non-government sector in providing these services is dependent on adequate levels of government subsidy.

⁶ For example, the Productivity Commission, *Trends in Aged Care Services: Some Implications*, September 2008, and Chartered Accountants Grant Thornton *Aged Care Survey*, 2008.

To be considered adequate, the level of government subsidy must be sufficient to cover the actual cost of service delivery, (in excess of that covered by contributions from residents), including capital expenditure. Also, the subsidy must also be adequately indexed to reflect the actual cost of price increases experienced.

The OPA submits:

- Research should be undertaken to:
 - a. determine the actual cost of providing residential and community aged care services to persons in Cohorts A and B;
 - b. obtain projections on the likely number of people who will fall within Cohorts A and B in the future;
 - c. identify appropriate models of care for persons within Cohort B; and
 - d. determine the likely capital costs to be incurred if providers were to provide specialised care models for persons in Cohort B.
- Current safeguards which require that providers meet concessional, supported and assisted resident ratios should be retained. These ratios should be reviewed to ensure there are sufficient concessional, supported and assisted resident places to meet actual need.
- Safeguards should ensure that approved providers are required to provide a level of places for residents with high care needs that meets the anticipated size of the cohort.
- A thorough review of funding arrangements for concessional, supported and assisted residents should be undertaken to ensure that:
 - a. funding is sufficient to meet the actual cost of providing the level of care required to meet the needs of these persons; and
 - b. there is an appropriate and practical mechanism available to approved providers to adjust funding levels when care needs increase.
- In principal, the OPA has no objection to consideration being given to the introduction of a more equitable system which allows those who can afford to contribute to their care to do so. In this regard the OPA agrees consideration could be given, as suggested by other stakeholders (for those who satisfy minimum asset thresholds) to:
 - a. the introduction of bonds for high care;
 - b. the introduction of annuities for high care; or
 - c. the deregulation of accommodation charges.

This submission can be summarised simply by acknowledging that the current aged care system is not sustainable and that in any review of that system the needs of persons within Cohorts A and B should be considered to ensure those persons are not disadvantaged and that they will continue to receive the care services that they need.

- b) Whether there is an inequity in user payments between different groups of aged care consumers and, if so, how the inequity can be addressed

A review of the submissions provided to the Committee by other agencies in relation to this inquiry indicates a general consensus amongst stakeholders that there is inequity in user payments between low-care and high-care residents.

One of the suggestions put forward by a number of stakeholders to address this inequity is to remove the distinction between low and high care residents and enable providers to request an accommodation bond from high care residents who have financial means. That is, institute common arrangements regarding the accommodation payments able to be applied to clients with sufficient assets and who are able to pay, regardless of the level of care a person requires.

The OPA acknowledges that there must be a review of current operational and capital funding arrangements for high care and low care places in order for the industry to be sustainable. The OPA agrees that a system of user pays appears to be necessary in order to achieve sustainability. The OPA has no objection **in principal** to the introduction of bonds in high care, (or to the implementation of some other method of capital contribution to high care costs on the

basis of a person's capacity to pay) **so long as safeguards are retained to ensure that approved providers continue to meet concessional, supported and assisted regional resident ratios and obligations remain on approved providers to provide care for residents with high care needs.**

Conclusion

The requirement for services in the residential and community aged care sector exceeds services available; this fact coupled with diminishing profitability is challenging the financial viability of the sector.

The OPA urges the Committee to be mindful of the circumstances of aged people with impaired decision-making capacity when considering the future funding arrangements for the residential and community aged care sector in Australia and to ensure that any approach adopted to address the inequities and financial viability of the sector does not disadvantage this cohort of vulnerable Australians.