LIQUOR, HOSPITALITY AND MISCELLANEOUS UNION

Registered Office 61 Thomas Street, Subiaco WA 6008
Postal Address PO Box 414, Subiaco WA 6904

Secretary Dave Kelly
President Nina Devlin
Assistant Secretaries Carolyn Smith, Kelly Shay

ABN 82 525 323 080

5 December 2008

The Secretary
Senate Finance and Public Administration Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir,

Submission to the Senate Inquiry into residential and community aged care in Australia

The LHMU represents the direct care workers who comprise about 75% of the aged care workforce. In making this submission our members welcome this rare opportunity to engage directly in the public policy process.

Since the introduction of the *Aged Care Act 1997* there have been numerous inquiries, reports, and research papers on various aspects of the aged care sector. Consistently the conclusion is made that aged care is underfunded. The point has been reached, or soon will be, where aged care is in financial crisis and common sense informs us that this was inevitable. The COPO Index has been steadfastly lower than the true inflation rate since 1997 and the compounding effect of this on real funding levels is a significant contributing factor.

The LHMU's position is that the care of our aged and frail is a social obligation that can only be fulfilled by adequate, realistic funding. The introduction of the Conditional Adjustment Payment by the Howard Government, in response to the Hogan Review, was a medium term, politically expedient measure which did not address longer term funding needs. The LHMU urges the Senate Committee to consider a funding mechanism that recognises the true and ongoing cost of quality care of our aged and frail.

The National Institute of Labour Studies' October 2008 report *Who Cares for Older Australians. A Picture of the Residential and Community Aged Care Workforce, 2007* ("NILS Report") reveals a reduction in the size of the workforce relative to the number and dependency levels of residents. Between 2003 and 2007 the number of aged care places increased by 12.5%, the number of residents requiring high care increased 4.5% to 70% yet the full-time equivalent of direct care employees only increased by 11.9%. Whilst this occurred, the NILS Report noted *since 2003, there has been a significant increase in both the proportion of direct care employees who are[personal carers] and the proportion of all direct care work that is done by [personal carers]* with this occupational group now comprising 64% of the direct care workforce. This has been accompanied by a sharp decline

over the same period in equivalent full-time employees who are registered nurses, from 21% to 17%. Concurrently, the number of direct care workers holding relevant qualifications has increased significantly, with 65% of personal carers holding Certificate III and 13% holding Certificate IV.

Both the NILS Report and the Productivity Commission's September 2008 Research Paper *Trends in Aged Care: Some Implications* ("PC Paper") highlight the workforces' overwhelming dissatisfaction with the rates of pay. This issue needs to be addressed if a well qualified, stable workforce is to be sustained. As noted in the PC Paper:

> *"The reason most commonly cited by employers experiencing difficulties in attracting and retaining staff in the aged care sector is the substantially lower remuneration of its employees compared with similar employment settings."*

The high annual turnover level of direct care workers (25% p.a.) must have deleterious effects on the quality of care outcomes, productivity and efficiency.

Aged care is a responsible, physically and emotionally demanding occupation and the current rates of pay do not reflect this. In Western Australia the hourly rate for personal carers ranges between $15.00 and $19.00. This compares unfavourably to the Federal Minimum Wage of $14.31 per hour and the Western Australian hourly rate of $14.57 prescribed for adult workers 21 years and over by the *Minimum Conditions of Employment Act (WA)*. The telling point has been made before that direct care workers' wage rates are comparable to those being paid to their teenage children in part-time, casual employment.

Women comprise 94% of the aged care workforce and the gender pay gap is very apparent in this sector. The Western Australian Department of Consumer and Employment Protection reports a 31% gender pay gap in the Heath and Community Services industry. Antiquated notions of females' innate care giving role have been embedded in the current pay rates and this structural distortion needs to be corrected to achieve a competitive and equitable pay structure.

To attract and retain a quality care workforce with appropriate skill levels there needs to be real links made between qualifications, on-going training and rates of pay, which is currently not the case. The increasing role of direct care workers comes with increased responsibilities and qualifications. Duties previously reserved for registered nurses are now being undertaken by enrolled nurses and personal carers. These include medication management, health indicator monitoring such as blood pressure and BSL levels, wound management and skin integrity. With an aging population, an increasing incidence of the aged presenting with multiple chronic illnesses and dementia, and rising community expectations of acceptable standards of care, it is essential that adequate funding be provided for on-going training and workforce development if expected quality care outcomes are to be achieved and maintained.

The NILS Report has identified an increasing trend of employing direct care workers on casual contracts with 23.4% of personal care workers employed on casual contract in November 2007. Anecdotal evidence leads the LHMU to conclude that workers are attracted to the casual rates of pay, in spite of the concomitant loss of entitlements and tenure, because the normal rates of pay are insufficient to meet their immediate needs. Quality care requires a dedicated, committed workforce, the antithesis of a casualised workforce. Again, addressing inadequate rates of pay is the principal means of arresting this disturbing trend.

A consistent message this union hears from its members is that many aged care facilities are seriously understaffed. Of particular concern to our members is the need to prescribe minimum staff/resident ratios to ensure aged care facilities are operating with appropriate

staff numbers and skill mix at all times. This union is often confronted with reports from members about residential aged care facilities operating shifts, especially at night, with inadequate staffing levels that beg the question of how it would be humanly possible to provide quality care without compromising the dignity of the residents. The recent sanctions imposed on the John Mercer Lodge in Western Australia illustrate this point with the operator, Silver Chain Nursing, citing its inability to attract and retain staff as the major cause of its failure to meet expected outcomes.

A common refrain from our members is that they arrive at work and 'hit the floor running.' This is borne out by the NILS Report, which shows of the personal carers that:

- only 26% felt they were able to spend sufficient time with the residents;
- only 36% did not feel under pressure to work harder; and,
- 43% found their job more stressful than they imagined.

The LHMU, WA Branch, provides legal services to members with workers' compensation injuries. Members working within the aged care sector make up the majority of cases handled. Most of these claims relate to shoulder and lower back injuries. All too commonly these injuries occur because of the pressure under which our members are working in order to fulfill all their duties. Disturbingly, the incidence of stress related injuries is increasing within this membership group.

It is well recognised that competitive employment conditions need to be offered to ensure a viable aged care workforce. When entering into enterprise bargaining negotiations with owners of aged care facilities this Union is often told by them that they do not have the financial capacity to improve wage rates and conditions. When asked to provide financial statements to support such claims commercial confidentiality is invariably cited as a reason to deny the Union access to detailed financial information. Circular arguments of this kind do little to engender a meaningful enterprise bargaining environment in which competitive and attractive conditions of employment can be negotiated.

There are no meaningful financial accountability requirements imposed upon aged care providers, in spite of the fact that they are recipients of substantial federal government funding. Most entities that own aged care facilities are either private not-for profit organisations (61.4%) or private for profit entities (26.9%) that have little or no obligation to make their financial statements generally available under either the States' legislation governing sole traders, partnerships or incorporated associations, or, the Corporations Law as it applies to private companies.

The quality of the aged care provided is inextricably linked to the quality of the workforce providing the care. The quality of the workforce is dependent upon the aged care sector being able to offer competitive wages and conditions capable of attracting and sustaining a quality workforce. Consequently, this Union recommends the following to the Senate Committee:

1. Minimum ratios of staff, with appropriate skill levels, to residents be required of accredited residential aged care facilities;
2. Funding for the payment of wages be separated from other funding and made payable to providers of residential aged care facilities only upon registration of enterprise bargaining agreements; and
3. Owners of accredited residential aged care facilities be required to make available annual, audited financial statements to all stakeholders, including the representatives of their workforce.

The Conditional Adjustment Payment ("CAP") serves as an illustration of the reasoning behind the Union's recommendations to the Senate Committee. To begin with it is worth quoting from the then Minister for Ageing's press release of 17 February 2005 announcing

the CAP entitled *Federal Government Requires Greater Accountability From Aged Care Providers:*

> *The new payment, worth $877.8 million, has given aged care homes an immediate boost in income to enable them to continue to improve the quality of care they provide for their residents.*
>
> *It will enable them to offer more competitive wages to nurses and other staff, thereby enhancing further their ability to provide high quality care and support. The new payment will allow providers to increase wages in line with demand in order to attract and retain quality staff.*
>
> *The new payments will also encourage more training of staff, from personal care workers to highly qualified specialist nurses. As a result, aged care will become a more attractive career option, staff turn-over will be reduced and residents and their families will have added confidence about the standard of hands-on care being delivered.*

Ms Bishop said that to encourage providers to become more efficient and accountable, the new payment will also be conditional on providers meeting obligations in regard to their financial accountability.

The purposes of the CAP are to offer more competitive wages to nurses and other staff, and, to encourage more training of staff. To be eligible for the CAP, residential aged care providers are required to:

a. give their staff information and opportunities regarding workforce training; and
b. make audited general purpose financial reports available each year to residents, potential residents, their representatives and any person or agency authorised by the Secretary of the Department; and
c. take part in a periodic workforce census; and
d. provide periodic reports to the Department of their compliance with each of these three conditions.

These eligibility conditions do not actually require owners of aged care facilities in receipt of the CAP to expend the significant CAP funding they received on the either the payment of wages or on staff training. Indeed, a review of the submissions made by owners of residential aged care facilities to the current Department Health and Ageing committee reviewing the CAP indicate that the CAP funding has been generally applied towards all their operating and capital requirements and was not exclusively applied to the towards the Government's stated purposes. Consequently there has not been any significant improvement in wage rates and employment conditions since 2005.

Recently this Union made an informal approach to the Department of Health and Ageing to determine the protocol for obtaining authorisation from the Secretary of the Department to obtain audited financial statements from providers in receipt of the CAP. The advice given was that since the introduction of the CAP in 2005 there had not been any applications made to the Secretary by any other persons or agencies for such authorisation. Further, the advice was that there would be little point in the Union making such an application because it would almost certainly be refused on the grounds of commercial confidentiality.

It beggars belief that the Federal Government made $877.8 million available to operators of residential aged care facilities to improve wages and training, did not impose any requirement on the operators to expend the monies on the workforce, did not require the operators to account for how they expended the monies and did not provide a mechanism to

enable enterprise bargaining negotiations to occur within an environment of full financial disclosure.

Yours sincerely

Dave Kelly
Secretary
LHMU WA Branch