Aged Care Association Australia

Discussion Paper

Aged Care Planning
Allocation
and
Approvals Processes

November 2008

Background

The introduction in 1962 of the Commonwealth Nursing Home Benefit payable to both the voluntary and for profit sectors stimulated substantial interest by private investors who viewed nursing homes as low risk, high profit financial ventures, (Kewley 1980)[i].

The consequences were a rapid increase in nursing home beds from 25,500 in 1962 to 51, 300 in 1972 the last year before controls on growth were implemented (McLeay 1982)[ii].

In 1972 there were 47.5 nursing home beds per 1,000 people aged 65 and over (Kewley 1980). The introduction of controls in that year resulted in a minor decline to 46.7 per 1,000 people aged 65 and over in 1981 (Nursing Homes and Hostels Review, 1986)[iii]. Between 1983 and 1986 new nursing home approvals essentially came to a halt with very limited numbers of new beds being distributed on the advice of the newly created Aged Care Advisory Committees in each state.[iv]

The aged care planning, allocation and approvals processes have been in place for over twenty years as a key policy platform with the dual purpose of controlling Commonwealth outlays as well as ensuring places are allocated in geographic areas where the 70 and over aged cohort reside. The argument has been that without the allocation of places according to regional planning areas, access would depend on the locational preferences of provider investors.

In 1986 the aged care planning ratio was set at maintaining the existing national ratio of 100 residential beds per 1,000 persons aged 70 and over made up of 40 Nursing Home and 60 Hostel places. In the early 1990s when Community Aged Care Packages (CACPs) were introduced, the formula was changed to 50 Hostel, still 40 Nursing Home but 10 CACPs.

In 2004 the formula was again changed to 40 High Care (Nursing Home), 48 Low Care (Hostel) and 20 CACPs thus increasing the overall places to 108 per 1,000 people 70 plus. In 2007 it was changed to 44 High Care, 44 Low Care and 25 community care (comprising 21 CACPs and 4 EACH), total 113 places.

The process of allocating new places commences with an estimation of the number of new places needed to cater for increases in the target population. Aged Care Planning Advisory Committees in each State and Territory then consider how the new places should be distributed between regions and special needs groups and advises the Secretary of the Department on the most appropriate allocation and distribution by different types of subsidy and proportions of care.[v]

The objectives of the planning process are:

a) To provide an open and clear planning process; and

b) To identify community needs, particularly in respect of people with special needs; and

c) To allocate places in a way that best meets the identified needs of the community (Aged Care Act 1997, Section 12-2).

The Aged Care Act (the Act) (Section 11-3) defines people with special needs as:

a) People from Aboriginal and Torres Strait Islander communities;

b) People from non-English speaking backgrounds;

c) People who live in rural and remote areas;

d) People who are financially or socially disadvantaged;

e) People who are veterans;

f) People of a kind (if any) specified in the Allocation Principles.

Allocation Rounds are advertised annually by the Department with invitations for applications from approved providers. Applications are assessed against the criteria in the Act and the Allocation Principles 1997. These include whether the applicant has the necessary expertise, experience, suitability and ability to provide the care and whether the premises are suitable for the provision of care.

Prior to 1 October 1997, places were allocated as either nursing home, hostel or CACPs and these services could only admit care recipients approved by the Aged care Assessment Teams as eligible for that level of care.

Since that date places have been allocated as either High or Low care, CACP or in latter years EACH or EACH Dementia. These places are restricted also as to the care recipients that they can admit, but the pre 1 October 1997 places can admit either High or Low care.

Prior to the Act a small number of nursing homes were designated as Exempt Nursing Homes. These homes offered a superior standard of accommodation and hotel services and could charge a higher fee to residents but in return the Commonwealth reduced the care subsidy payable under the Resident Classification Assessment Instrument (RCAI).

With the advent of the Act, these homes were called Extra Service and the Act extended to Low care the opportunity for allocated places to be classed as Extra Service. These places must be either all of the places in the approved service or in a distinct part of the facility providing it is physically identifiable as separate from the rest of the service. There must be at least five places in the distinct part and it must include sufficient living space, including dining and lounge areas, for the exclusive use of the residents living in it.[vi]

As with the Exempt Nursing Home, Extra Service places can charge a higher daily fee in return for receiving a lower care subsidy. The major difference is that, in addition, Extra Service operators may also charge an Accommodation Bond regardless of their level of care. These Extra Service places will generally not need to meet the concessional ratio requirements.

With the Act the number of Extra Service places could not exceed twelve percent of places allocated, but this was subsequently increased to fifteen percent. Despite this target, only around six percent of all places are so designated.

Aged Care Planning and Approvals Process

Professor Warren Hogan in his major report on residential aged care recommended to government (2004)[vii] that the aged care approvals round process have a price signal attached to it. Hogan suggested that the aged care industry, rather than having aged care approvals round places allocated as a free asset transfer to the Industry, should have the places auctioned with the result that in attractive areas approved providers would pay government for the allocation whilst in unattractive areas the Government may need to pay approved providers to build and operate aged care places.

If adopted, Hogan's suggestion would have the immediate impact of sending a price signal to government about the attractiveness of building aged care places. The Government for some time has argued that while approved providers are applying for aged care places at a rate of four to one of the places available then government will not take the industry claims of inadequate capital for High Care seriously.

Since the publication of his report, Professor Hogan has modified his view. In an article in the Australian Financial Review (2007)[viii], Hogan said:

> *"Existing arrangements reinforce a centrally-planned system limiting the say of both providers of aged care facilities and users of those facilities. The political and administrative leadership determines the number of beds allocated each year. Boards and management of aged care facilities are dependent on these allocations before any investment decision can be taken. Users of services and their families have few choices, if any, in seeking a place in a residential facility.*

Gray (1999)[ix] forecast that eventually the government would move to the next wave of change embracing a more competitive model of aged care as the effectiveness of accreditation, building quality and approved provider requirements laid the foundation for providing consumers the right to choose where their care should be delivered, either at home or in residential care.

> *"This wave, driven by competition policy, will involve further deregulation by the abandonment of the planning ratios, the uncapping of user pays and changing the ACAT approval process."*

He stated that this would likely commence between 2008 and 2010.

Approval process options for consideration

Competitive tender

Rather than the Government going through the existing processes of determining state-wide and regional place allocations and then attempting to determine the best allocation distribution amongst the successful applicants in each of the 70 planning regions, the Government could go through a formal competitive tender process across broad geographic areas thus allowing tenderers to submit bids based upon multiple regions.

Providers could then put forward a whole of organisation business plan and forward projections that indicate why providers are looking for additional places and how these will be utilised across the broader organisational structure and to clearly indicate the integration of allocations

across the organisation's geographic spread.

ACAA does not recommend this option particularly while Government maintains a rigid control on price, demand and supply.

Less Regulation

In the less regulated approach suggested by Gray, the Australian Government withdraws from allocating aged care places and leaves that provision to approved providers and market forces. The rationale behind this argument is that there is no cost to the Government until a place is occupied by an approved care recipient. It is only then that a care subsidy entitlement becomes payable. Vacant capacity cost falls to the approved provider and then mainly with residential places.

The threat to the Industry of such an arrangement would be the possibility of financial institutions heavily discounting the value of the licences held by industry providers from a relatively expensive secondary market value today on average to a substantially lower value if there were to be no controls on the supply side.

The benefit of a less regulated scheme would be that providers could build when and where required, look to other alternative incomes outside the Commonwealth domain more readily and be more responsive to market forces than is currently possible given the controls on allocation, sale and relocation of licences within the existing scheme.

The current approved provider, building quality and accreditation processes would still be in place to ensure that only those providers approved to receive a care subsidy would be able to benefit. Also building quality and care standards would continue to be maintained.

Instead of controlling outlays through planning and allocation, the Government would be faced with tightening the eligibility for an entitlement to a care subsidy. The other challenge would be ensuring that places for special needs groups would still continue to be provided and expanded. This could be achieved through increased Government care subsidies specifically targeted accordingly.

ACAA does not recommend this option whilst Government maintains a strict control on supply, demand and price as basic economics says that you cannot have an unregulated environment in one part of an economic structure whilst having severe economic controls over another part.

Low Demand Areas

Aged care is always going to suffer in a competitive environment where there is likely to be only one provider of services for either a small socio-economic group or a small geographic population.

It is essential therefore that specific provision be made in these circumstances, either by way of government grants or in a tendering process, government being prepared to pay higher rates to induce service providers to provider service to either this socio-economic group or geographic area, that it would otherwise be unattractive.

ACAA calls on the Government to consider a substantial expansion of the zero real interest loan option to ensure that adequate supply is maintained in low demand areas

or areas of lower socially economic capacity or for those operators who are providing facilities specifically directed at a large number of socially disadvantaged persons and for whom any form of market driven capital raising such as lump sum contributions simply is not an option.

Government Contracts

An alternative to the options above is that the Government specifically contracts with approved aged care providers to build and operate an agreed number of places within a geographic region with the Government including within their contracts an agreed number of funded places the Government requires to be operated. The approved provider would be at liberty to utilise the balance of their service to provide care support to other self funded or insurable aged care recipients or other clients that the provider may be able to attract, eg: step down or post acute rehabilitation.

Status Quo

If none of these alternatives are attractive then the Industry needs to consider that the preferred way forward is to maintain the status quo and improve the existing allocation process to ensure the most efficient and effective use of resources both by government and the industry.

ACAA believes that while ever the current systems remains significantly rigid by virtue of Government controlling the number of places available to meet demand for access to care through the aged care assessment teams and the price that any client is required to pay no matter what their economic means, then the status quo is the only possible future direction that the Association could support until Government is prepared to reconsider its stance on these three economic fundamentals

Aged Care Allocation Round Process (ACAR)

The existing scheme needs to be changed to provide a better planning framework for approved providers with a higher level of certainty than the current scheme. The current scheme has tended to be a lottery with providers almost being forced to submit annual applications in the hope that they may be successful whether or not their strategic plan really calls for additional capacity. One commentator has dubbed the process as "bed Lotto."

If aged care providers were able to know five years in advance that they had been allocated approvals in principle and that they needed to achieve certain milestones within agreed time frames during the five years in principle approval, such as local government approval, financing, land purchase, architectural plans and building contracts and that the particular places were to be brought online within a given forward period then there would be a lot more certainty attached to the current planning scheme and providers would be able to operate with certainty.

During 2005-06[x] the estimated total building work completed or in progress in new, replacement and upgrading work was $2.25 billion and with the projected doubling of the demand for care services over the next 25 years there is no indication that current capital needs are going to decline.

The current ACAR process does not provide certainty as the outcomes appear on many occasions to be opaque and incomprehensible. The process is certainly not transparent resulting in many providers choosing to submit an application on the off chance that they may be successful.

Transparency could be enhanced by the publication of both the successful and unsuccessful applicants for places. This would then impose greater rigour on Department decision making as to which applicants should be successful.

ACAA welcomed the partial reform of the existing allocation process announced by the Government in 2004 providing for three year projections of allocations at state and regional levels however this fails to go far enough to provide the level of certainty aged care providers and the financial institutions need.

ACAA recommends aged care providers should know five years in advance that they have received an allocation so that they can then plan for the development and construction of required capacity and not be required to construct a new residential facility from scratch within the impossibly short timeframe of two years. The two year coming on stream period should begin from the end of the three year approval in principle period.

ACAA recommends that all the data available to the Department in making planning decisions should be in the public domain so that existing and future providers can proceed with future business planning and place applications in the fullest understanding of the requirements of certain geographic areas.

In addition, feedback from the Department informing unsuccessful aged care providers of the reasons for their failure to be allocated a place needs to be more substantial and transparent within the bounds of maintaining commercial in confidence information of other applicants.

Aged Care Planning Ratios

The original decision to plan aged care approvals on the basis of 100 places per 1,000 persons aged 70 years and over was arrived at by reference to the then number of nursing home and hostel places and the age and dependency levels of the residents.

ACAA has been concerned for a long time that the decision made by Government in 2004 to expand the number of places from 100 places per thousand persons aged 70 years and over to 108 and then to increase that number to 113 in 2007 without any verifiable scientific study surrounding the impact of this increase in planned places would have upon the overall system or the components within the system was dangerous and likely to lead to unintended consequences for aged care providers.

ACAA is now particularly concerned that this unilateral decision by Government has lead to a major impact on the occupancy levels of the industry and is now severely affecting the capacity of the industry to build additional places given that the occupancy rates are now running at approximately 93% are making aged care facilities less and less viable.

Whilst dependency may be a better measure for place demand, the current ratios of 88 residential places and 25 community care places are a questionable proxy. What is out of step is the way the 88 residential places are split equally into 44 High and 44 Low Care. As 70 percent of all residents are assessed as High Care, the continuation of the High/Low Care split is irrelevant.

The Government contends that it is increasing the overall ratio to meet the growing demand for home care and thus providing greater choice to consumers. However the increase in the community care planning ratio and the consequent potential for higher levels of vacancies to occur within the Industry has the risk of reducing the number of operators in the field and may, in the end, have the consequence of actually reducing the choices available to consumers. In addition, government takes no risk when aged care places are vacant as government pays no price for a place that is not occupied in either an operating context or a capital context. The full risk of having a place vacant in the current scheme is totally borne by aged care providers.

ACAA does not believe that aged care providers should have to carry the full risk of vacant places whilst the Government continues to apply the very strict controls on the income available to providers. If supply is to be in excess of demand, then the cap on price will need to be loosened in order for aged care businesses to survive.

Occupancy rates around the country are variable with a number of capital cities experiencing long term substantial vacancy levels and many new facilities taking far longer than previously to reach 75 per cent occupancy or higher. At the same time there are numerous examples of facilities with long term waiting lists in parts of the country. It is debatable why these significantly different outcomes are occurring though it is likely that the existing planning undertaken by the Department in its forward projections for bed allocations is proving deficient in some respects otherwise one would expect far better distribution and more even outcomes in respect of occupancy levels.

At the same time the Department's own figures clearly indicate that occupancy is declining. Since June 2000 occupancy has steadily declined from 96.3 percent to 93.0 percent[xi] as at June 2008 and on current trends will continue its downward slide. With an average occupancy

of 93 percent many facilities must be running at an occupancy level of 90 percent or lower. The financial viability of these facilities is questionable.

ACAA recommends the Government undertake a complete review of the planning and allocation process in order to examine whether there is a justification for the continuation of the current arrangements and to determine what is the appropriate number of places required to meet future demand based on the changing demographic profile, changing dependency levels, consumer care expectations and requirements and how these should be met through the combination of government support and individual contribution.

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[i] Kewley, T. H. *Australian Social Security Today*: Sydney University Press, Sydney 1980

[ii] McLeay Report: House of Representatives Standing Committee on Expenditure, Australia, 1982.

[iii] *Nursing Homes and Hostels Review*, Department of Community Services, Australia, 1986.

[iv] Gibson, Diane, *Aged care: old policies, new problems,* Cambridge University Press, UK, 1998.

[v] Productivity Commission, *Nursing Home Subsidies – Inquiry Report,* Report No. 4 13 January 1999, Commonwealth of Australia, 1999.

[vi] *Review of Pricing Arrangements in Residential Aged Care*, The Commonwealth Legislative Framework, Background Paper No. 2, Commonwealth of Australia, 2003.

[vii] Hogan W P, *Review of Pricing Arrangements in Residential Aged Care - Final Report,* Commonwealth of Australia, 2004.

[viii] Hogan W P, *Myopic Strategy Hinders Aged Care,* Australian Financial Review, July 5 2007.

[ix] Gray, Richard, *The Third Wave of Aged Care Reform,"* Catholic Health Australia Newsletter, Health Matters, editions 2 and 3, October and December 1999.

[x] *Report on the Operation of the Aged Care Act 1997,* 1 July 2005 to 30 June 2006, Australian Government Department of Health and Ageing, 2006.

[xi] Gray, Professor Len, *Two Year Review of Aged Care Reforms,* Commonwealth of Australia 2001 and subsequent annual Reports on the Operation of the Aged Care Act 1997.