



**Aged & Community
Services • Australia**



ACSA Submission

PRODUCTIVITY COMMISSION'S ANNUAL REVIEW

OF REGULATORY BURDENS ON BUSINESS:

Social & Economic Infrastructure Services

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Introduction

Australia's aged care organisations provide high quality and effective services to older people, younger people with disabilities and their carers. The Australian Government and State/Territory governments all fund and regulate aspects of the provision of aged care. Service providers want to meet reasonable accountability requirements but the current regulatory regime controls nearly every aspect of operations and limits their ability to be innovative and progressive in delivering care to older people. The current requirements take valuable time and resources away from delivering direct care to older people.

The regulatory regime needs to be overhauled to ensure the right level of control and accountability is in place while removing unnecessary and/or duplicative requirements to ensure maximum resources are available for high quality direct care.

This submission identifies a range of regulatory burdens in residential and community aged care that need to be addressed. Where possible an indicative cost of compliance is included. The submission also highlights alternative arrangements that could be put in place to maintain accountability and enhance service delivery.

Residential Care

Residential aged care services are funded by the Australian Government and are subject to an ever increasing number of federal and state/territory regulations including:

- Certification – a DHA building standard which duplicates (and increases the requirements) under the Building Code of Australia, administered by the States.
- Fire Regulations – DHA Annual Returns, State and Local Government Fire Service Requirements.
- Accreditation – a quality improvement system which includes accreditation, unannounced spot checks and support visits.
- Complaints – the Commonwealth Government Complaints Investigation Scheme (CIS) which has a paperwork hungry response system.
- Prudential Compliance Annual Returns – reporting on bond management.
- Occupational Health & Safety – reporting and investigating incidents which may include fire or electrical incidents.
- Infectious Diseases Reporting e.g. Gastro/Flu – Commonwealth Government and State Government requirements.
- Food Safety Compliance – overlaps with Accreditation.
- Reporting Missing Residents – reporting to DHA and the Police is required.
- Equal Opportunity Annual Report.
- Financial/Audit Requirements – including reporting on the Conditional Adjustment Payment to DHA.
- Mandatory Reporting of Abuse – to DHA & Police often against the wishes of the older person involved.
- Undertaking & Analysing Police Checks.
- Validations of funding provided.
- Extra Service Status.

This is not an exhaustive list but demonstrates the wide ranging compliance regimes which aged care providers are required to meet. A small number of these regulations are examined in further detail.

Accreditation

The current accreditation system operates on a 3 year cycle. Providers are accredited for a period of 1, 2 or 3 years. A fee is paid for each accreditation cycle. Within the accredited time frame

services will also receive support visits and announced spot checks. In most accreditation services there are annual visits after the initial decision to accredit rather than the ongoing processes to which aged care are subject.

Residential aged care accreditation is undertaken by a government owned company. Its primary focus is increasingly on monitoring *compliance* rather than operating as a *quality improvement process*. Aged care staff report that accreditation visits are stressful and take a “policing” approach to quality.

The accreditation system operates as a monopoly. All residential care providers must be accredited by the Aged Care Standards and Accreditation Agency (the Agency). There are other services and structures which can provide quality management and quality improvement services in a competitive marketplace. Using the structure established under the Joint Accreditation System of Australia and New Zealand (JAS-ANZ) would deliver high quality accreditation services to the industry and could reduce the need for over \$21 million in subsidies currently provided to the Agency¹ to the extent that greater competition reduces costs. The JAS-ANZ framework is already used for other Australian Government programs, such as disability employment services and would provide high quality accreditation to the aged care industry at a lower cost to both the Australian Government and the industry.

The accreditation system also includes checking on areas regulated elsewhere such as food safety. All that should be required is for the Accreditation Agency to sight relevant compliance documentation rather than undertake any of its own assessment.

As the majority of aged care providers offer a range of services they can be required to meet a number of accreditation and quality improvement processes through a variety of bodies. It would be most effective for providers to be accredited once across the full range of operations rather than on an individual service/funding source basis as is currently the case.

One aged care provider with 7 different facilities estimates the annual compliance cost for accreditation including fees, training, overheads and staffing at approx \$544,000 per annum.

Incident Reporting

Aged care providers are required to multi report a number of incidents including:

1. Gastroenteritis outbreaks to State Health authorities and Commonwealth Department of Health & Ageing. In turn this is likely to be reported to the Aged Care Standards and Accreditation Agency.
2. Missing residents to the Police and the Commonwealth Department of Health and Ageing. In turn this is likely to be reported the Aged Care Standards and Accreditation Agency.
3. Occupational Health & Safety to state authorities and it is also covered by the Aged Care Standards and Accreditation Agency.
4. Food Safety is generally the responsibility of Local Councils within each state and it is also monitored by the Aged Care Standards and Accreditation Agency.

There is clearly double reporting and handling of these particular issues which needs to be addressed. There certainly does not need to be a referral from the Department to the Accreditation Agency for gastroenteritis outbreaks or if a resident goes missing. State Health Authority action and Police action is an appropriate response. The fact that these things occur do not mean that the provider has been negligent and requires accreditation checks. It is questionable whether the Department needs to be notified in either of these cases where the primary agencies – i.e. State Health and the Police are satisfied with the way the service provider has handled the situation.

¹ Aged Care Standards and Accreditation Agency Ltd Annual report 2007/2008: Part Eight: Financial Statements
http://www.accreditation.org.au/site/uploads/2007_2008_AgedCare_AR.pdf

Where there are other legislative or compliance processes, as in the case of examples 3 & 4, the Accreditation Agency should not be required to play any role other than sighting relevant approval/certification documentation.

CAP Reporting

The Commonwealth Government provides aged care organisations with a Conditional Adjustment Payment (CAP) in recognition of the current inadequate indexation methodology. Providers are required to use the payment for training and salaries. They are also required to make separate compliance reports on expenditure of the payment rather than being able to show usage in general financial statements.

While this is a relatively minor reporting requirement and cost (one provider estimates a compliance cost of \$5,170) it is clearly duplicative and a cost that should not need to be borne. Streamlining of these reporting requirements would reduce this compliance cost.

Prudential Requirements

New requirements for providers on bond holding reporting were introduced in 2006. The reason for introducing these requirements was stated by Government as providing greater protection for resident's funds. Industry default history in repaying bonds, highlights that there have been minimal or no cases where a bond has not been refunded. Given this history it was next to impossible for the accounting firm designing the new requirements to model industry risk in this area. This begs the question as to why more stringent requirements needed to be introduced at all. The cost of reporting on accommodation bonds by one service has been estimated at \$10,712. Again this may not seem onerous if viewed in isolation but the sum total of such requirements is a significant financial and resource impost on aged care providers. Streamlining of these reporting requirements would reduce this compliance cost.

Police Checks

ACSA has generally supported the introduction of police checks for staff and volunteers working in aged care. ACSA's main issue has been the implementation of this measure as an additional unfunded compliance cost. With the benefit of implementation experience industry does not believe the current approach to police checks is sustainable as it is:

- a disincentive for relatively lowly paid staff to join aged care;
- difficult for providers, that are under increasing financial pressure, to continue to meet the unfunded costs of additional regulations; and
- difficult to make an assessment on a criminal record and whether or not a conviction on a record constitutes a sexual or other form of assault barring an individual from employment. In some cases providers have had to employ lawyers to make such assessments and this is a costly exercise.

ACSA is proposing the introduction of a Working in Aged Care Card (similar to the "Blue Card" used for child protection services in Queensland) to address these sustainability issues. It would undertake the prescribed suitability assessments against the convictions which bar employment in aged care. A feasibility study needs to be undertaken as a first step in establishing this system. The industry has estimated that the current police check arrangements cost approx \$5m per annum. This cost should be met by Government until such time as the new Card is operational.

Compulsory Reporting of Abuse

Aged care providers are legislatively required to report cases of abuse, which could be resident to resident or familial, regardless of whether or not the person who has been abused consents to this

occurring. Reports must be made to the Department of Health and Ageing and to the Police. This Government policy denies an older person living in residential care the basic right to decide for themselves whether they wish to report the event and have any further action taken.

Prior to this requirement abuse would be reported to the Police where the older person elected to do so. This approach protected the rights of the older person.

The new requirements mean that providers have had to develop reporting systems which are checked as part of the accreditation process. One service provider estimated the establishment cost (including policy development and staff training) of such a system at \$27,000. This is an example of compliance which adds nothing to the safety and protection of residents and in fact infringes their rights. In addition it has an unnecessary financial impact.

Extra Service Status

Extra Service Homes are residential aged care services where the client or their family, pay more to obtain a higher standard of amenity than is otherwise available. Extra service provides a choice for consumers in the type of accommodation they want to live in. It is one of the few areas where older people have any choice at all about the type of service they receive.

The Australian Government regulates this area by setting criteria for granting the status and sets regional targets for the level of extra service provision. This regulation works to constrain choice by predetermining the types of extra service a resident might want.

Government regulation of extra service status adds little value and costs approximately \$520,000 per annum. It duplicates the functions of consumer affairs protection mechanisms operated by State and Territory governments. It should be dispensed with as a first step in opening up choices for older people.

Community Care

Community care is characterised by a large number of compatible programs each with their own funding and reporting requirements. This results in organisations providing multiple sets of essentially similar information, often to the same Department.

An organisation providing CACP, EACH, EACHD, HACC/COPS, NRCP (Respite House and in-home respite), DTC, DVA Nursing, VHC (a not unusual service mix) has to deal with the following:

- 8 different Guidelines
- 6 different Standards
- 5 different quality reporting/monitoring processes
- 5 different referral and assessment processes
- 7 different review and assessment processes
- 8 different financial reporting requirements, incorporating various periodic returns
- 8 different data reporting requirements
- 4 different software requirements
- 4 different processes for provision of equipment

To undertake all this, when trying to provide high quality, flexible and accessible care that meets the individual needs of clients, takes an incredible amount of staff time, which ultimately affects direct service provision to older people.

In rural and remote areas the situation is even worse as providers may only have a small amount of each of the different programs but they are still required to meet all of the various accountability requirements.

Clearly this is inefficient. Given the similarities between programs and the various requirements a single, or at least streamlined, set of reporting requirements must be developed. Government is attempting to develop common standards which would apply to CACP's, EACH, EACHD, NRCP & the HACC Program. The proposed standards and monitoring process move away from a continuous quality improvement approach to a much stronger compliance basis.

Of particular interest to this review is that even with the introduction of streamlined standards and reporting documentation providers will be required to undergo the same process twice where they receive Commonwealth Funding (CACP's, EACH, EACHD & NRCP) and Commonwealth/ State funding via State Government for the HACC Program. The jurisdictions have not been able to agree to a single reporting and assessment process which will significantly undermine any potential benefit of common standards and double the costs of implementation and administration for both governments and service providers.

In addition, large service providers often have common policies and procedures in place across a number of service outlets. The current and proposed system will see each outlet reporting and audited potentially twice depending on their funding streams, despite the common application. ACSA has proposed that a risk management approach be adopted to reduce the cost and duplication of this process.

Conclusion

This submission highlights the large number of regulations to which aged care providers are subject. Many of them are duplicative and could easily be streamlined which would create savings for both Government and service providers without compromising the quality of care delivered to older people. These savings would be better spent on direct care delivery to our ageing population.