

## Response to the Productivity Commission's Issues Paper on Indirect Employment in Aged Care

May 2022

### Introductory statement

The safety and quality of care provided by the paid aged care workforce is an important issue for family and friend carers of older people. These carers want the people they care for to have the range and quality of formal aged care services they need and want. This is important to carers because they are concerned with the wellbeing of their loved ones, and they fill the gaps in paid service provision.

As a first point to highlight, the term 'carer' should not be used broadly and without context to describe a paid care worker, or a family member or friend who is not, in fact, a carer as defined by the *Carer Recognition Act 2010* (Commonwealth).<sup>1</sup> There are different issues and solutions for paid care workers and unpaid carers, and the Productivity Commission and government need to recognise this.

Good quality paid care, whether from paid care workers or nurses, complements the time and energies of family and friend carers undertaking home care, and can take a significant caring load off carers who are balancing employment, day-to-day living, and often living with their own health issues. This can avoid or delay entry to residential aged care. Entering residential care does not signal the end to the care relationship; many carers visit and still provide care, in some cases on a daily basis. This can be to provide company but also to make sure that the person they care about is properly nourished, clean, comfortable, and their clinical needs are attended to. Only since the pandemic have these carers been formally identified as "partners in care".<sup>2</sup>

Carers Australia appreciates the reasoning behind the Royal Commission into Aged Care Quality and Safety (Royal Commission) recommendation that approved providers have policies and procedures to preference direct employment of workers engaged to provide personal care and nursing services through registered aged care providers. In this response we have concentrated on the pros and cons of agency and digital platforms for home care employment of nurses and paid care workers as the predominant focus of the Issues Paper. We support the view that, as is currently the case, direct employment should be the principal model for the recruitment of nurses and aged care workers in residential care. However, we also recognise that paid care contracted outside of the home care provider market can produce useful outcomes for some consumers, carers and employees and meet important objectives of home care reform.

From the aged care worker perspective, direct employment can confer benefits and protections that indirect employment may not. For permanent employees this includes paid leave, redundancy pay, superannuation contributions, employer-paid insurance, training opportunities and career paths. From the consumer and carer perspective, receiving regular care from employees who are well trained and are engaged with consumers on a permanent or long-term basis also brings benefits, whether that care is delivered in a residential facility or in the home. However, as the proceedings of the Royal Commission demonstrate, direct employment is not synonymous with the provision of quality care, any more than indirect employment is synonymous with poor quality care. We also note that, while indirect employees may be casual employees, so is a significant proportion of the aged care provider workforce. The most recent Aged Care Workforce Census found a fifth of residential aged care personal care workers, a quarter of Commonwealth Home Support Program (CHSP) aged care workers, and nearly half of home care package care workers are on casual employment contracts.<sup>3</sup>

<sup>1</sup> Australian Government, *Carer Recognition Act 2010*, No.123,2010 [[accessed online](#)]

<sup>2</sup> Australian Government, Aged Care Quality and Safety Commission 'Partnerships in care' [webpage](#) [last updated 29 April 22]

<sup>3</sup> Australian Government, Department of Health '2020 Aged Care Workforce Census Report' [[accessed online](#)]

## The pros and cons of indirect employment in home care

### ***The exercise of choice and control***

Consumer dignity and choice is the first standard under the Quality Standards of the Aged Care Quality and Safety Commission.<sup>4</sup> Consumer choice and control in the planning and delivery of care is also one of the objects of the new *Aged Care Act* recommended by the Royal Commission.

The capacity of aged care consumers and their carers to exercise choice and control is manifested in its most obvious form through self-management of home care packages. Among other things, self-management should empower consumers and carers to directly choose who they want to provide services.

One of the most important features of care delivery from the consumer perspective is continuity of care through establishing good relationships with the people who provide care to them and who in some cases attend to their most intimate needs. When a home care provider supplies a nurse or aged care worker who the consumer is not comfortable with, which is especially important to consider from a cultural safety perspective as well as basic dignity, it may be difficult to organise an alternate paid care worker. Conversely, if the care is provided by someone with whom the consumer is compatible, there is no guarantee they will not be reassigned by the provider to other clients.

As noted in the Issues Paper, self-management has been an option for National Disability Insurance Scheme (NDIS) participants and their families for a number of years, with approximately 13% choosing to commission and receive their supports in this way.<sup>5</sup> Indeed, unlike the self-management of aged care packages, where an approved provider must be assigned to manage the funds (and will be paid an administrative fee deducted from the package to do so), NDIS participants can manage their own funds and have access to guidance material and tools to help them do so. Carers Australia considers the same option should be available for aged care consumers.

### ***Filling in gaps in the home care provider market***

There are clear instances where recruitment from agencies/digital platforms may be the only feasible options for consumers.

The first involves consumers with special needs that cannot be accommodated by home care providers in their vicinity. Take, for example, cases where consumers have reverted to their first language, as is often the case for people with dementia, and they need care to be provided by someone who speaks that language. If local home care providers do not have employees proficient in the consumer's language, or cannot recruit to meet these needs, advertising on digital platforms may produce better results. Or it may be the case that an LGBTIQ+ older person has a strong preference for a LGBTIQ+ care worker or at the very least someone who they are confident will treat them with understanding, dignity and respect. Additionally, it may be important for people from particular faiths or cultural backgrounds to be cared for by someone of the same faith and/or culture or of a particular gender, especially for personal care.

The second circumstance where digital platforms can serve local recruitment needs is in thin markets where home care providers are unable to meet demand as more and more people in their community become eligible for packages or are located considerable distance from the person needing care. Where formal home care is not readily available, many people must rely on family and friend carers or may be forced to move into residential aged care away from their local community; this has been reported in the media recently.<sup>6</sup> This is particularly an issue to address for older Aboriginal and Torres Strait Islander People if they have to move off Country.

<sup>4</sup> Australian Government, Aged Care Quality and Safety Commission 'Quality Standards' [webpage](#) [last updated 9 Nov 2021]

<sup>5</sup> Australian Government. National Disability Insurance Agency, 'NDIS Quarterly Report to Disability Ministers', 31 December 2021, [[accessed online](#)]

<sup>6</sup> ABC News, 'Aged care at home service created by town of Bell sets new benchmark for locals looking after local' [online article](#) [Posted 2 May 2022]

### ***Opportunities for flexible employment for unpaid carers***

This section focuses on family and friend carers who may be employed or seeking employment in the paid care workforce.

As noted in the Issues Paper, relatively few agency and independent contractors work in aged care, however the use of digital platform work for caring jobs has been growing and most care workers who seek employment via this avenue are looking to top up their existing income and/or are not in a position to take on more substantial employment within regular working hours. These include people experiencing disadvantage in the employment market due to living with chronic illness or disability, or they may have unpaid care responsibilities.

Primary carers often have to give up employment to provide care, frequently over a number of years. When the caring role diminishes or ceases (as may be the case when the person they care for enters residential care or when they die), carers are likely to have an attenuated and interrupted work history and no current referees. The jobs they previously had may no longer exist or have radically changed. Under these circumstances they are likely to struggle to find employment. According to the 2017 Valuation Report for the Australian Priority Investment Approach to Welfare, around two thirds of people on Carer Payment projected to exit the payment over the following 10 years can be expected move on to another income support payment, and a substantial proportion will move onto a working age payment.<sup>7</sup>

Against this background, it is clearly important for carers to be able to retain some connection to the workforce in the period in which they are providing substantial care to a family member or friend. Flexible working hours organised around their family or friend caring responsibilities can help to do this and, for people having to meet costs of living from the Carer Payment and/or Carer Allowance, even a small increase in income can make a welcome difference. Their capacity to draw on their own lived experience of caring add value to their employment.

We draw the Productivity Commission's attention to [Your Caring Way](#), a partnership between Carers Queensland, Carers South Australia, Carers Tasmania and a number of other organisations which is designed to assist carers with training, tools and work opportunities to meet their own employment goals. The digital platform Mable is used in this endeavor.

### ***Regulation of indirect employment***

While Carers Australia is of the view there is clearly a place for direct employment of nurses and care workers by consumers, it is also important that minimum conditions of employment are required to ensure the provision of safe, quality care for consumers.

Anyone employed to provide government funded care should be subject to police checks and professional registration requirements. We note that AHPRA registration is required for nurses, and it is anticipated national registration to cover personal care workers is intended to be introduced as part of the response to the Royal Commission; this will be a positive step for the industry. These employees should also provide evidence they are qualified to deliver the care required by the consumer. This may include a Certificate 3 or 4 in Aged Care or Disability Support, or government approved equivalents, and specialist training in the areas of dementia care, trauma informed care and palliative care where the condition of the person being cared for warrants these requirements. These employees should also be cognisant of aged care quality and safety standards and codes of conduct, and where these employees commit breaches of quality safety standards covered in the Serious Incident Response Scheme to be introduced for home care, their employers should advise the Aged Care Quality and Safety Commission (or its successor).

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<sup>7</sup> Australian Government, Department of Social Services, 'Australian Priority Investment Approach to Welfare - 2017 Valuation Report', pp 102-3, [\[accessed online\]](#)

Employees recruited through agencies or digital platforms should also have professional indemnity, public liability and personal accident insurance. We note that reputable platforms we are familiar with include this insurance in their fees.

There appears to be a perception that independent employees contracted for home care are paid less than their equivalent employees by registered home care providers. However, the Issues Paper notes that the jury is out on this matter, and we are aware of cases where consumers choose to self-manage partly because they think care workers and nurses deserve a higher level of pay which they are willing to provide. This issue needs further clarification and communication to all parties.

### ***Clarification of the employment relationship and responsibilities***

The models of independent contracting in home care canvassed in the Issues Paper can present challenges for both consumers and employees.

For consumers who wish to self-manage their services in this way, it needs to be made clear what their responsibilities are as employers in cases where the agency or platform does not assume an employer role. This information also needs to be provided to carers who assist the older person they care for to self-manage their services, or in some cases undertaking the administration formally if there is cognitive impairment. Assistance in the form of guidance material and tools developed by My Aged Care needs to be provided, as is the case with the NDIS, for both consumers, carer and their representatives and employees.

## **Conclusion**

- Carers Australia supports direct employment in residential aged care, particularly for people living with dementia who need a predictable environment and routine and to receive care from people who are familiar with their individual needs.
- Carers Australia acknowledges the predominant model of home care employment is likely to remain casual or permanent employment through a registered home care provider, particularly for higher level packages, however we also support indirect employment via agencies and digital platforms as a feature of maintaining an aged care workforce that allows consumers who wish to self-manage their packages to exercise more choice and control over service provision, and can fill in gaps in the provider market.
- Carers Australia supports models of flexible employment for carers seeking to balance paid care work with their unpaid care responsibilities.
- Carers Australia recommends that contractors accessed through agencies and digital platforms, whether or not those organisations are direct employers, should be required to provide:
  - evidence of training and experience and that this evidence is inclusive of specialist training where this is needed by the package holder (for example, dementia, trauma informed and palliative care training)
  - police checks (updated annually)
  - the same registration requirements as employees of home care providers
  - evidence of awareness and understanding through the agency or digital platform of aged care quality and safety standards and relevant codes of conduct, as should the older person or their representatives commissioning these services.

Guidance should also be made available to package holders in relation to their obligations to anyone they employ.

- Carers Australia questions the requirement that people who choose to self-manage their packages must enlist with an approved aged care provider to manage package expenditure, noting that these providers extract an administrative fee deducted from the package that can often seem quite high for what is a very basic service.

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#### About Carers Australia

Carers Australia is the national peak body representing the diversity of the 2.65 million Australians who provide unpaid care and support to family members and friends with a disability, chronic condition, mental illness or disorder, drug or alcohol problem, terminal illness, or who are frail aged.

In collaboration with our members, the peak carer organisations in each state and territory, we collectively form the National Carer Network and are an established infrastructure that represent the views of carers at the national level.

Our vision is an Australia that values and supports all carers, where all carers should have the same rights, choices, and opportunities as other Australians to enjoy optimum health, social and economic wellbeing and participate in family, social and community life, employment, and education.

This includes carers:

- Who have their own care needs
- Who are in multiple care relationships
- Who have employment and/or education commitments
- Aged under 25 years (young carers)
- Aged over 65 years, including 'grandparent carers'
- From culturally and linguistically diverse backgrounds
- Who identify as Aboriginal and Torres Strait Islander
- Who identify as lesbian, gay, bisexual, transgender, intersex (LGBTI+)
- Who are living in rural and remote Australia, and
- Who are no longer in a caring role (former carers).

Carers Australia acknowledges Aboriginal and/or Torres Strait Islander peoples and communities as the traditional custodians of the land we work on and pay our respects to Elders past, present and emerging. As an inclusive organisation we celebrate people of all backgrounds, genders, sexualities, cultures, bodies, and abilities.