ROYAL COMMISSION INTO AGED CARE QUALITY AND SAFETY

FINAL PUBLIC SUBMISSION OF THE AUSTRALIAN NURSING AND MIDWIFERY FEDERATION

TO THE ROYAL COMMISSION INTO AGED CARE QUALITY AND SAFETY

INTRODUCTION

1. This submission to the Royal Commission into Aged Care Quality and Safety (the Commission) by the Australian Nursing and Midwifery Federation (ANMF) is made in response to the Commission's invitation for final submissions to be lodged by 31 July 2020. While the ANMF may be called upon by the Commission to provide additional future submissions to the Commission in response to specific requests for evidence, the present submission summarises the key points and recommendations made by the ANMF over the course of the Commission's work to date.

2. The primary focus of the ANMF in regard to our submissions to the Commission has been championing the interests, needs, and preferences of those who provide or receive care through Australia's aged care sector. Throughout the ANMF's submissions to the Commission, we have argued for changes that would benefit those who receive services and that would support positive experiences and outcomes that truly put people at the centre of the sector. In our submission focusing on person-centred care (PCC),[1] we highlighted that all recipients of aged care should have access to and experience safe, best practice care regardless of their location, health conditions, personal circumstances, and background. We highlighted that people, who are the recipients of care, must be the key decision-makers in their care with support and information from their care providers. We explained that the ANMF and its members support and actively promote PCC. The ANMF and its members seek to improve PCC principles and address gaps in practice in line with the broader drive to enhance the delivery of PCC across all health and aged care contexts and to actively involve older people, their family and loved ones in decision making related to their care. The ANMF and its members value and understand the importance of the relationship between residents, their relatives/loved ones, and staff members and seek to work in partnership with them to deliver best-practice PCC. Thus, person centred care is a fundamental theme of all our submissions, as it is PCC that all nurses and midwives strive to provide as a central element of their registration standards.

3. The Commission has so far heard and seen a wealth of evidence provided by many stakeholders in Australia's aged care sector including the staff that work in aged care, owners and managers of facilities, health and aged care specialists, government representatives, academic researchers, professional organisations, and union members. Most importantly, the Commission has heard from those that live in or who receive services from aged care providers in either long term/permanent nursing homes or in homes in the community. These people are themselves from a variety of walks of life, cultural

[1] ANM.0004.0001.0001

circumstances, social, spiritual, and linguistic groups, and socioeconomic backgrounds. Many of these people have been older Australians and some younger people who reside in nursing homes. Many have told their stories (their own, or those of their family members and loved ones) and contributed their perspectives regarding the state of Australia's aged care sector. This evidence, and that which has been provided by others have so far led to the Commission's interim report titled 'Neglect'; a report that unequivocally highlights the clear need for sector-wide reform, the shameful state of Australia's aged care sector, and shocking conditions experienced by many people engaged in the system both as recipients of aged care services and as staff who work there.

4. The Commission's interim report describes, in the Commission's words, an aged care system that:

> *"*[F]*ails to meet the needs of our older, often very vulnerable, citizens. It does not deliver uniformly safe and quality care for older people. It is unkind and uncaring towards them. In too many instances, it simply neglects them."* [2]

5. The ANMF suggests that the Commission could give consideration to releasing its final report in two parts; the first part of the report could be entitled 'Shame' and the second part, 'Hope'. Here, shame refers to the confronting evidence before the Commission of inadequate care and a system not fit for purpose. It also refers to the wealth of past reports and inquiries commissioned by various governments and bodies over many years that have repeatedly found similar undeniable evidence for the systemic and persistent problems in Australia's aged care sector and made recommendations that have as yet largely not been acted upon. Australia's current aged care sector, and the absence of any real efforts to effectively respond and correct the systemic problems of neglect that persist within it are certainly a cause for shame and even more so if we continue to fail to respond.

6. The evidence before the Commission must be recorded, marshalled, and acted upon to champion an irrefutable case for change. The Commission has before it the opportunity to make recommendations based on the evidence it has received that will give hope to a sector that is dire need of reform.

7. Hope, the second part of the Commission's final report could then signpost the specific proposals for change and the promising evidence before the Commission of instances of good practice that demonstrate the current and potential scope for a world class aged care system that values, cares for, and promotes the health and wellbeing of the people for whom it exists to serve and that support it through money from their own pockets and taxes. 'Hope' is the light at the end of the dark tunnel that much of Australia's aged care system currently finds itself in. 'Hope' is a commitment to improving the sector, responding to the evidence, and facilitating the adoption of a system that truly has at heart, the provision of high quality and safe care to our elderly that is appropriate, sustainable, and economically feasible for every person to access in a way that meets their needs and

[2] Extract from Interim Report 1 A Shocking Tale of Neglect page 1: https://agedcare.royalcommission.gov.au/sites/default/files/2019-12/interim-report-foreword.pdf

preferences for care. A system that values and recognises the contributions of its workforce and rewards commitment and best-practice care with equitable remuneration and safe, supportive working conditions. It is through the Commission's work and the recommendations it puts forward that Australia, as one of the most affluent and developed nations in the world, could possess an aged care system that stands as an example to others and represent how we as a society value our older people and those that provide care for them towards the end of their lives.

8. The ANMF has previously provided numerous submissions and a significant amount of evidence to the Commission. That material has been responsive to the themes and topics identified by the Commission itself in the course of its work. To date, the ANMF has contributed substantial submissions and witness evidence and participated in round table discussions, workshops and hearings in respect of almost all the topics of the Commission's inquiries on issues ranging across residential and in home aged care, clinical care, dementia, person-centred care, advance care planning, palliative services, flexibility of aged care, aged care in regional, rural and remote areas, regulation, safety and quality, younger people and diverse community members in aged care, workforce, interfaces between the healthcare system and aged care and aged care program redesign.

9. This present submission identifies the critical themes and priorities that the ANMF recommends to the Commission should be addressed in the Commission's final report. The submission does so through reference to the submissions and material already lodged with the Commission thereby providing a guide or index to the ANMF's position. In this final submission we highlight key recommendations that we submit are vital to addressing the significant issues brought to light throughout the Commission's proceedings and that we believe the Commission should themselves recommend to realise safe, quality care that all Australians deserve as they grow older.

RECOMMENDATION 1: MANDATED MINIMUM STAFFING LEVELS AND SKILLS MIX

10. The ANMF recommends that nursing homes must ensure residents receive an average of 4.3 hours of care per day delivered by a mandated minimum skill mix of 30 percent registered nurses (RN), 20 percent enrolled nurses (EN), and 50 percent personal care workers (PCW).

11. The ANMF urges the Royal Commission to support and adopt our recommendation that nursing homes should *at a minimum* be staffed to provide, on average, each resident with 4.3 hours (258 minutes) resident care hours per day (RCHPD) inclusive of 77 minutes of RN RCHPD, 52 minutes of EN RCHPD, and 129 minutes of PCW RCHPD. Nursing homes that provide this would achieve a five-star staffing rating according to the US's Nursing Home Compare (NHC) Rating System. The ANMF notes that this would be achievable with a mandated minimum skills mix of 30 percent RNs, 20 percent ENs, and 50 percent PCWs and that this recommendation also includes the need to ensure that at least one RN is present on each shift. As we have done previously, we highlight that this recommendation does *not* include necessary RCHPD provided by staff other than nurses and PCWs, which would need

to be added to the average 4.3 hours of care that should be provided to each resident. The Commission has heard that that all residents should receive at least 22 minutes of allied health care per day, and while the ANMF agrees that this should be recommended and may be the basis for further improvements, the evidence for this figure is not conclusive and thus may not truly capture the extent of allied health care needs of all residents.

12. In regard to the NHC Rating System, the ANMF has highlighted its position that any rating less than five stars cannot confirm that residents would receive an adequate amount of care from a suitably sized workforce with the right skills mix. As the ANMF has explained, none of the possible four-star ratings meet the ANMF's evidence-based assessment of the time and skills mix needed to deliver safe and quality care to the average resident of a nursing home. If a rating system were to be adopted in line with the NCH Rating System, the ANMF submits that the appropriate and necessary rating to deliver quality and safe care to residents of nursing homes is a five-star rating.[3]

13. Throughout its submissions, the ANMF has consistently recommended the implementation of mandated minimum staffing levels and skills mix in nursing homes as a critical and necessary action to addressing the widespread delivery of substandard care throughout the aged care sector.

14. In Counsel Assisting's Submissions on Workforce,[4] the ANMF was pleased to note the conclusion that:

> *'the most efficacious way of ensuring high quality and safe aged care in a residential setting is by imposing requirements on the providers of that care to have a minimum number of care staff in a mix that takes account of the care needs of their residents.'*[5]

15. As the ANMF has previously noted in its response to the Counsel Assisting's Submissions on Workforce; closely bound to mandated staffing levels and skills mix is the acknowledgement that it is necessary to improve the working lives of all workers in aged care in order to deliver safe and quality care.[6]

16. The ANMF welcomed Counsel Assisting's recommendation that 'an approved provider of a residential aged care facility should be required by law to have a minimum ratio of care staff to residents working at all times' and is pleased to see that the recommended ratio 'should be set at the level that is necessary to provide high quality and safe care to residents.'[7]

17. **The ANMF recommends that nursing homes must ensure the provision of at least 54 minutes of RN care per day to each resident included within at least 180 total minutes of care provided by RNs, ENs, and PCWs.**

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[3] ANM.0018.0001.0008 [AWF.650.00108]
[4] RCD.0012.0061.0001
[5] IBID [68].
[6] ANM.0001.0001
[7] RCD.0012.0061.0001

18. Along with our recommendation regarding mandated minimum staffing levels and skills mix, we also recommend that every resident must receive *at least* 54 minutes of RN care per day and *at least* 180 minutes of care provided by RNs, ENs, and PCWs. Again, this does not include the additional care that many residents will need to be provided by other direct care staff such at allied health professionals, specialists, and general practitioners etc.

19. Beyond the primary goal of mandated minimum staffing levels and skills mix to improve the care provided to residents of nursing homes to underpin better outcomes, greater wellbeing, and the provision of restorative care, throughout many of its submissions the ANMF has also brought evidence to the Commission to demonstrate that implementing this action would benefit the sector in a number of other ways. Mandated minimum staffing levels and skills mix would be an effective and important approach to addressing the poor track record of the sector regarding the attraction and retention of staff – particularly nursing staff. Mandating minimum staffing levels and skills mix also addresses issues regarding; interfaces with the health sector and handover to other health professionals, the provision of PCC to residents, engagement with family members and loved ones, supporting the capacity for nursing homes to offer better quality clinical placement positions for student nurses, and ensuring better occupational health and safety and workplace conditions for staff members who are less likely to be overwhelmed by unfeasible workloads.

20. Recommendations and evidence put before the Commission in regard to mandated minimum staffing levels and skill mix have been submitted by the ANMF across the range of our submissions.

21. In submission ANM.0002.0001.0001 – Aged Care in the Home, March 2019 we advocated for the implementation of mandatory staffing levels and skill mix in relation to high levels of workload stress, a lack of staff and support, unreasonable demands on staff, lack of appropriate skills in the workforce, and a lack of time to care.

22. In submission ANM.0003.0001.0004 – Residential Dementia Care, May 2019 [AC 19/965]we advocated for the implementation of mandatory staffing levels and skill mix in support of the care requirements of those who suffer from dementia and inappropriate care that stems from a lack of staff and expertise such as the use of physical and chemical restraints.

23. In submission ANM.0004.0001.0004 – Person Centred Care, June 2019 we advocated for the implementation of mandatory staffing levels and skill mix in support of the delivery of person-centred care, advanced-care planning and palliative care. In an environment under-resourced and under skilled, the ability for nurses and personal care workers to deliver this care is impacted.

24. In submission ANM.0005.0001.0001 – Aspects of care in residential, home, and flexible aged care programs, rural and regional issues for service delivery of aged care, and quality of life for people receiving aged care, July 2019 the ANMF identified the lack of mandatory

minimum staffing levels and skill mix as a key contributor to the delivery of substandard care throughout the aged care sector, an impact felt more prominently through rural, regional and remote areas.

25. In submission ANM.0006.0001.0001 – Regulation of quality and safety in aged care and how aspects of the current system operate, different approaches to regulation (including in other sectors) and how regulations and oversight of quality and safety in aged care can be improved, August 2019 the ANMF advocated for the inclusion of mandatory minimum staffing levels and skills mix in the *Aged Care Act 1997*, indicating that without legislation appropriate staffing will not occur throughout the sector and other measures implemented to improve the quality of the delivery of care will fall short.

26. In submission ANM.0012.0001.0001 – Diversity in aged care, October 2019 [AWF.600.01309] the ANMF advocated for the implementation of mandatory minimum staffing levels and skill mix, although there is a varied and diverse population that engages with aged care, and subsequently there is a diverse range of requirements in education, resources and capability, without an appropriate number of staff and skill mix, appropriate attendance to the diverse care requirements of this population is not ensured.

27. In submission ANM.0013.0001.0001 – Aged care workforce, October 2019 [AWF.600.01307]the ANMF advocated for mandatory minimum staff levels and skill mix noting appropriate levels of staffing in the workforce as being crucial to ensuring a viable and sustainable workforce, notably contributing to worker retention.

28. In submission ANM.0014.0001.0001 – Aged care in regional and remote areas, November 2019 [AWF.600.01356] the ANMF advocated for mandatory minimum staff levels and skill mix particularly as they pertain to ensuring the appropriate delivery of care within rural, regional and remote areas. Particularly in the context of Multi-Purpose Services.

29. In submission ANM.0016.0001.0001 – Interfaces between the aged care and the health care system, December 2019, the ANMF advocated for mandatory minimum staffing and skill mix ratios noting in particular where the inappropriate delivery of health care in the aged care sector places pressure on the acute tertiary hospital sector, and results in cost shifting from the provider to the public health system.

30. In submission ANM.0018.0001.0001 [AWF.650.00108] – In response to the counsel assisting's submissions on workforce, March 2020, the ANMF supported Counsel Assisting's view that the most efficacious way of ensuring high quality and safe aged care in a residential setting is by imposing requirements on the providers of that care to have minimum numbers of care staff in a mix that takes account of the care needs of their residents.

31. Other considerations have also been put forward in regard to mandatory minimum staffing levels and skill mix in relation to Professor Eagar's Wollongong report and the proposed use

of a US style nursing home compare star rating system.[8] As noted above, whilst informative to those engaging with the aged care sector, the implementation of a star rating system alone will not ensure the safe and appropriate delivery of care. The star rating system is a rating system only and not a staffing model (See Exhibit 11-1, Tab 176, RCD.9999.0231.0011).

32. Finally, the COVID-19 pandemic has served to highlight the vulnerability of aged care residents and demonstrated that peripatetic servicing of clinical and health needs in nursing homes simply does not work. In in our most recent submission to the Commission regarding to the Australian aged care sector's response to the ongoing COVID-19 pandemic,[9] the ANMF highlighted that now more than ever, the need for mandated minimum staffing levels and skills mix is clear.

33. The ANMF strongly urges the Commission to take up our recommendations regarding mandated minimum staffing levels and skills mix as the cornerstone upon which all other actions to address the systemic problems and neglect prevalent in Australia's aged care sector rely. Without the right number of the right staff to provide care to our most vulnerable older Australians, it is unlikely that the implementation of any other interventions will be successful or effective.

RECOMMENDATION 2: LEGISLATED REQUIREMENTS FOR CLINICAL GOVERNANCE, LEADERSHIP & EXPERTISE

34. A considerable portion of the evidence provided to the Commission, and to the plethora of inquiries and investigations commissioned by various governments and authorities over many years, has exposed a lack of clinical governance, leadership and expertise across the aged care sector as a key contributor to the failures of care recognised by the Commission in its interim report, '*Neglect*'.

35. The ANMF, among others, has submitted that the approach, and even insistence, from many providers across the sector that their responsibility to the elderly is to provide only a 'home', with various home-like supports, is misguided at best and neglectful at worst. Evidence to the Commission has emphasised the reasons for people moving into residential aged care facilities are generally triggered by one or more health incidents resulting in needs, which are complex, multiple and interacting, rather than life-style choices. This has also been submitted to the Commission by aged care residents themselves (See Exhibit 3-1, WIT.0107.0001.0001 (Mitchell). However, the approach of providers, as above, has resulted in a refusal to acknowledge the complex health needs of many elderly people, most particularly those living in nursing homes. This had led, in turn, to those needs going unmet

[8] Eagar K, Westera A, Snoek M, Kobel C, toggle C, Gordon R. 2019. How Australian residential aged care staffing levels compare with international and national benchmarks. Centre for Health Service Development, Australian Health Services Research Institute, University of Wollongong
[9] ANM.0020.0001.0001 [AWF.600.01786]

and, ultimately, to pain, suffering, preventable illness, conditions and even death (See Exhibit 3-70, WIT.0115.0001 (Ibrahim)).

36. Clinical governance at a standard that ensures appropriate clinical leadership and expertise is available and effective across all levels of the aged care sector is critical. It would enable recognition and management of those needs and assist in avoiding the pain and distress caused for the elderly and their families that has been presented to the Commission by many witnesses.

37. However, the capacity for effective clinical governance is sorely lacking in the aged care sector at present. Providers are largely led by people who have little to no expertise or experience in health or aged care but tend to have backgrounds in finance, accounting and banking, small and large corporations, and hotel and hospitality services. The ANMF has argued that while these skillsets add value, particularly at board level, and contribute to effective corporate governance of the sector, they are not effective in ensuring clinical governance. Indeed, they suggest that the priorities of the sector's operators are primarily financial.

38. Clinical governance must become an essential element of the overall organisational governance of any nursing home. It is both a provider responsibility and regulator responsibility to ensure effective clinical governance is in place to ensure the safety and wellbeing of aged care recipients. A local clinical governance framework, which establishes how clinical quality and safety infuses all aspects of the operations of care and influences nursing home culture; how it is led and managed; workforce profile and skillset; systems, policies and procedures; the built environment and other infrastructure, should be guaranteed at every nursing home.

39. However, at present the Aged Care Quality and Safety Commission, despite its attempts to promote the importance of clinical governance, notes it as a feature that providers 'should' rather than 'must' have in place[i]. It is evident that clinical supervision has not been clearly articulated through legislation, nor evaluated effectively through regulation. This has led to large scale failures to safeguard aged care recipients, as demonstrated in the evidence given by residents and their families to the Commission. Systemic clinical governance must be embedded in the functions of the regulator.

40. The ANMF, among others, has submitted that there is an urgent need to improve clinical governance across Australia's aged care sector at many levels; from Providers' boards, governments, departments of health and aged care, to each individual aged care facility and point of care delivery. Effective clinical governance, which ensures the delivery of safe and quality care would necessarily include mandated minimum staffing levels and skills mix.

41. The ANMF recommends that the aged care sector must have legislated requirements to demonstrate quality clinical governance through effective clinical leadership and expertise at all levels.

42. Recommendations and evidence put before the Commission in regard to the need for effective clinical governance have been submitted by the ANMF across the range of our submissions.

43. In submission ANM.0003.0001.0001 - Residential Dementia Care, May 2019 [AC 19/965] the ANMF advocated for the need to collect clinical data and analyse the data to monitor outcomes as crucial to improving care delivery and supporting a culture of quality improvement. We supported the managed collection of mandated quality indicators for residential care as a starting point but highlighted the need for the data to be collected in a validated, consistent way enabling it to be analysed to improve care outcomes. In addition, the ANMF highlighted that beyond the basic monitoring, collection, and reporting of this data, robust examination and analysis must occur in order to identify the risk factors and causes that underlie these outcomes. This will be vital to future implementation of measures to reduce risk, improve outcomes and deliver on ensuring continuous improvements to care in nursing homes.

44. In submission ANM.0005.0001.0001 - Aspects Of Care In Residential, Home, And Flexible Aged Care Programs, Rural And Regional Issues For Service Delivery Of Aged Care, And Quality Of Life For People Receiving Aged Care, July 2019 the ANMF highlighted medication management, including administration, as a high risk process that requires an evidenced based clinical governance framework to establish policies and processes that enable quality use of medicines. The ANMF advocated for the importance of qualified nurses in managing medicines in residential care including their key role in ensuring that medicines are ordered and available for residents in collaboration with prescribers and pharmacies, are stored appropriately, administered correctly and documented.

45. Also in submission ANM.0005.0001.0001 - Aspects Of Care In Residential, Home, And Flexible Aged Care Programs, Rural And Regional Issues For Service Delivery Of Aged Care, And Quality Of Life For People Receiving Aged Care, July 2019 the ANMF highlighted the phenomenon of missed care in residential aged care in Australia, including wound care and medication management, submitting that care activities are missed at least part of the time for almost 90% of aged care residents because of inadequate staffing levels and time constraints. The ANMF recommended that an effective clinical governance framework, would identify care that is assessed as required and then missed as a failing and provide a means to rectify this situation.

46. In submission ANM.0015.0001.0001 – Workforce (2), October 2019 [AWF.650.00048] the ANMF argued that clinical governance needed to be embedded in all levels of management across the aged care sector and that all providers and their boards needed to have clinical governance structures in place with direct reporting accountability.

47. In submission ANM.0018.0001.0001 – Response to Counsel Assisting's Submission on

Workforce, March 2020 [AWF.650.00108] the ANMF noted that a culture of safety, quality, and respect must come from the top. Strong leadership that is focused on the health, wellbeing, and safety of older people as well as the aged care workforce is critical. This is necessary at all levels, from providers to the industry, and at the level of government. The ANMF advocated for leadership and support from executive management, providers, industry, and government to ensure quality clinical leadership from the nursing workforce itself which would both contribute to improved safety and quality of care and to fostering a culture that in turn respects, values, and cares for older people.

48. In submission ANM.0020.0001.0001 - In Relation to the Impact of Covid-19 in Aged Care, June 2020 [AWF.600.01786] the ANMF argued that effective clinical governance is enabled at nursing home level through strong, informed clinical leadership at the Provider Board level with a subsequent effect on the quality of care delivery. Given the particular focus of this submission, the ANMF recommended that a requirement for aged care providers and operators to guarantee appropriate clinical governance, including sufficient clinical expertise, would have increased the capacity for the sector to ensure infection control and prevention measures were fully understood and implemented. The continuing and unfolding COVID-19 outbreak in aged care demonstrates the life threatening shortfall of infection control expertise, and therefore appropriate clinical governance, across the aged care system.

49. The ANMF urges the Commission to take up our recommendations regarding both systemic clinical governance by the Aged Care Quality and Safety Commission and legislated requirements for clinical governance from all aged care providers, including demonstrated clinical leadership and expertise across all settings, as core actions to address the systemic problems and neglect prevalent in Australia's aged care sector.

RECOMMENDATION 3: LEGISLATED TRANSPARENCY AND ACCOUNTABILITY MEASURES

50. In evidence provided to the Commission, the ANMF has emphasised the critical need for much greater transparency and accountability across the aged care sector with regard to how funding of the sector is directed and how the sector is held accountable across a range of measures, including acquittal of funding and in broad terms accountability through regulation within the sector.

51. The ANMF has further submitted that both the Government and providers must be required to be transparent and accountable in relation to direct care funding. Aged care providers are not currently transparent regarding the staffing and skills mix of their facilities, or on how much they spend on other resources related to direct care provision, e.g. continence aids, medical equipment and supplies, and even nutrition. Yet, the public has a right to know that tax-payer provided subsidies to the sector are being directed to quality care provision.

52. Information as to how much each provider, and each site they operate, is funded and how they deploy that funding is essential information required to assess the performance of the

provider and specific site. This is most important with respect to funding allocated for staffing levels and skills mix. Too often we have seen Government initiatives intended to improve funding for wages in the sector allocated without any discernible benefit to workers in aged care, nor any accountability for how those allocated funds have been expended.

53. The ANMF submits that to address this the Government must also be required to be more transparent as to the allocation of funds, identifying where the funds are directed, in particular funds allocated to provide direct care services. Providers at both the provider and site level must then be required to report how allocated funds have been acquitted. Transparency in funding will serve as an important measure for the public, consumers of residential aged care services, their families, the workforce and their representatives to have confidence in how tax-payer funded money is spent in the sector.

54. Transparency must be accompanied with accountability in funding. Not only should the level of funding allocated be visible, once allocated its expenditure must be reported and appropriately acquitted. A failure to acquit funds for the allocated purpose should carry consequences for future funding allocations.

55. The ANMF submits that the current aged care funding arrangements are no longer fit for purpose, do not reflect the actual costs of care using an efficient price/cost approach, and particularly, lack transparency and accountability on the part of aged care providers for funding expenditure. Given the increasing concerns regarding some providers' financial viability, particularly as this now seems to be used to justify staffing reductions, greater transparency of information is essential so that situations of genuine need can be differentiated from opportunistic behaviour during this critical time.

56. The ANMF recommends that the aged care sector must have legislated transparency and accountability measures, which should include the following at a minimum:

    (a) Any allocation of additional funds to aged care providers must come with a clear mandate of accountability and transparency and that all funding provided for the purposes of direct care is the subject of accountability and acquittal arrangements such as if funds specified and allocated for care are not applied they are surrendered. To assist this funding must be linked to quality of care outcomes and determined through an evidence based methodology.
    (b) Funding for wage costs must be demonstrated to have been used for that purpose and a failure to account for the use of tax-payer funds must have consequences. For example, any funds allocated to direct care not spent should be returned to government or deducted from the next round of funding. In addition, funding available for wages and conditions must be made clear to the bargaining parties during enterprise bargaining.
    (c) An independent assessment body, which assesses and fixes funding by reference to independently assessed resident need, should be established.
    (d) As a system steward, the Commonwealth must have explicit accountabilities around public reporting of data, funding and aged care outcomes

57. Recommendations and evidence put before the Commission in regard to the need for increased transparency and accountability have been submitted by the ANMF across the range of our submissions.

58. In the Amended Statement of Annie Butler ANM.0001.0001.0001, January 2019 Ms Butler stated the ANFM has argued that better, more transparent staffing structures and requirements are necessary for providers to demonstrate to Government and the Australian community how taxpayers' money is directed to the delivery of safe care to all people in receipt of care.

59. In submission ANM.0002.0001.0001 – Aged Care in the Home, March 2019 the ANMF noted members concerns that there was a lack of clarity about how funds allocated to providers and care agencies for the delivery of Home Care Packages is utilised. The extent to which funding is directed to administration of packages, rather than delivery of direct care services is unregulated and vulnerable to inconsistency in fees charged and overcharging. The way funding is allocated in home care packages requires greater scrutiny.

60. In submission ANM.0005.0001.0001 - Aspects of care in residential, home and flexible aged care programs, rural and regional issues for service delivery of aged care, and quality of life for people receiving aged care, July 2019, the ANMF argued the current regulatory and funding arrangements in aged care are unsatisfactory because they encourage perverse outcomes that focus on financial accountability at the expense of clinical governance. The current funding arrangements fail to direct funding and accountability of public funding to the delivery of quality care.

61. In submission ANM.0006.0001.0001 - Regulation of quality and safety in aged care and how aspects of the current system operate, different approaches to regulation (including in other sectors) and how regulation and oversight of quality and safety in aged care can be improved, August 2019, the ANMF noted that the current Aged Care Funding Instrument method of funding is under review and a replacement model under the Resource Utilisation and Classification Study (RUCS) is being developed. This has progressed in the intervening months, but the trial of the new model has been delayed. The ANMF largely supports the new model and considers it will improve transparency. The ANMF refers to the report 'All in the Family: Tax and Financial Practices of Australia's Largest Family Owned Aged Care Companies' report which examines the lack of transparency of private family owned facilities.

62. In submission ANM. 0013.0001.0001 – Aged care workforce, October 2019 the ANMF outlined instances where the Government had allocated funding intended to improve wages in aged care. In each instance the allocation of funding and the methods put in place to direct funding to wages, for example the 2013 Workforce supplement, failed to deliver the intended result. This was elaborated on in detail in the evidence of Paul Gilbert at the Melbourne 3 Hearing at Gilbert Transcript P-5997:7-P 5998:12 and in WIT.0430.0001.0001 at 0021-0026. The workforce supplement was the first time government funding to improve

the wages of the aged care workforce was guaranteed to be passed on to staff. However, due to Government shift in policy, the funding allocated to the workforce supplement was simply reabsorbed into general funding for providers with no tangible improvement for workers' wages.

63. In submission ANM. 0015.0001.0001 - Workforce Submissions, October 2019 the ANMF reiterated that both the Government and providers must be required to be transparent and accountable in relation to direct care funding. The need for funding intended for wage costs must be demonstrated to have been used for that purpose.

64. In submission ANM.0019.0001.0001 - ANMF's response to Counsel Assisting's submission on program redesign, March 2020 [AWF.665.00020] the ANMF supported the proposal put by Counsel Assisting that funding should be set by an independent authority on the basis of efficient standardised costs ascertained on regular intervals by an independent pricing authority. The ANMF submitted that an independent pricing authority should be charged with the responsibility not merely of fixing efficient standardised costs referable to minimum award prescribed terms and conditions or hard bargained supplements to award rates, but for fixing costs by reference to the needs for staff attraction and retention, training, wage parity with public sector nurses and similar factors.

65. Funds allocated in accordance with such pricing would then need to be reported and acquitted. As outlined in the Workforce Submission, this would involve transparent reporting of payroll details to be assessed against the purpose for which funds were allocated. This mechanism would provide some foundation for addressing staff wages, conditions and training and what has been identified in the course of the Workforce hearings as an intractable problem.

66. In submission ANM. 0020.0001.0001 in relation to the impact of COVID-19 in aged care, June 2020 the ANMF argued that while investment to support providers to cope with the additional demands and costs required to respond to the pandemic is needed, this funding must also be subject to transparency and accountability. This is particularly due to the known and pre-existing systemic issues regarding safety and quality in aged care, making this funding available to aged care providers without defining and regulating how or what the funds are used for runs the very real risk of this added funding not being used appropriately or effectively to protect vulnerable residents, staff, or residents' families and loved ones from potential infection. The ANMF expressed concern regarding the lack of any requirement from providers to demonstrate that their use this funding was directed to activities that would help protect and provide care to vulnerable older people such as through the employment of skilled staff.

RECOMMENDATION 4: ENSURE WORKFORCE CAPACITY AND CAPABILITY

67. The fourth area of priority that the ANMF wishes to draw to the Commission's attention is the importance of ensuring the aged care workforce has an ongoing capacity and capability to provide high quality care and support to care recipients. This will only be achieved by

improving the standing of workers in aged care through improved training, wages and conditions. The work must be valued by society as skilled, often complex and vital to ensuring the dignity, wellbeing and health of people residing in nursing homes are receiving care in other settings.

68. Working in aged care must be promoted as an attractive and rewarding career option and provide pathways for development and skills enhancement leading to better work. The entrenched view of care work being low skilled and inferior on the basis of being 'women's work' must be overturned. Within the sector, there is a prevalence of part-time and casual work. Many workers are compelled to work over multiple sites and/or for multiple employers to earn a living wage. This has resulted in a fragmented workforce that lacks industrial voice and is unable to provide consistent quality of care.

69. Further, in the last decade the composition of the direct care nursing workforce has changed, resulting in a loss of skill in the workforce and dilution of the capacity of registered nurses (RNs) and enrolled nurses (ENs) in aged care. This has occurred against a setting of increased age, co-morbidity and complex health conditions of people entering residential care. The need for RNs and ENs in the aged care sector as the population ages will only increase. The ANMF has submitted that an overall reduction in nursing numbers has had, and continues to have, direct implications for the quality and safety of care delivered.

70. Evidence before the Commission has consistently reported high workloads, unreasonable nurse to resident ratios, stress and occupational violence as commonplace. Wages in the aged care sector are low when compared to public sector nursing wages and many care workers are paid at award rates or only marginally above. These factors contribute to low morale, burn out, decisions to leave the sector and create barriers to recruitment to the sector. Further, they necessarily impact on the quality and safety of care provided.

71. The ANMF has submitted that the Commission should make the following recommendations in order to enhance the aged care workforce's capacity and capability to provide high quality care and support good quality of life to care recipients and make the aged care sector a more attractive and rewarding place to work:

    (a) Wage outcomes for aged care workers must be improved to match public sector wages.
    (b) The aged care sector should be supported to overcome the systemic barriers to achieving wage parity and improved working conditions.
    (c) Safe work practices and design must be promoted
    (d) Government funding of aged care must be transparent and accountable.
    (e) Both Government and providers must demonstrate accountability with respect to funding allocated to wages.
    (f) Funding must be linked to quality of care outcomes and determined through an evidence based methodology
    (g) The aged care sector must be supported and promoted through policy and funding as an essential and valued part of the health sector. This is achieved

through education pathways, transition to the workforce and career development.

(h) Positive cultural perceptions of aging and elderly people and those who care for them must be promoted

(i) The currently unregulated aged care workforce must become subject to minimum education and training standards and be regulated to ensure delivery of quality and safe care.

72. Recommendations and evidence put before the Commission in regard to ensuring workforce capacity and capability have been submitted by the ANMF across the range of our submissions.

73. In submission ANM.0013.0001.0001 – Aged Care Workforce, October 2019 [AWF.600.01307], the ANMF provided detailed submissions focusing on the size and composition of the aged care workforce, the challenges in attracting and retaining aged care works and effective recruitment and retention in aged care. The need for training and education that prepares the workforce to deliver the care needs of residents in aged care is addressed in this submission.

74. In submission ANM.0015.0001.0001 – Workforce Submissions, October 2019 [AWF.650.00048], the ANMF provided a response to Counsel Assisting's call for submissions on policy issues relating to determining and implementing minimum staffing levels and skills mix, options to resolve low remuneration and working conditions, how to raise the overall skill, knowledge and competence of the workforce and how to ensure service providers develop strong governance and the Commonwealth stewardship and leadership in the sector. The ANMF concluded that across all these areas significant and whole scale reform is required.

75. In submission ANM.0016.0001.0001 – Interfaces between the Aged Care and the Health Care System, December 2019 the ANMF outlined the need for more nurse practitioners (NPs) in the aged care system, noting their capacity to fill multiple roles across the sector. The ANMF further argued that NPs would provide a rapid solution to a number of issues in residential aged care, including providing support and education for nurses and care workers, and improving residents' health outcomes and quality of life without the need for major restructuring in the sector.

76. In submission ANM.0018.0001.0001 – ANMF response to Counsel Assisting's Submissions on Workforce [AWF.650.00108], the preliminary recommendations made by Counsel Assisting to the Royal Commission were largely supported by the ANMF, in particular that the most important measure to ensuring quality care in residential setting is by imposing requirements on the providers of that care to have minimum number of care staff in a mix that takes account of the care needs of residents.

77. The submission responded to a range of other measures proposed by Counsel Assisting, including the implementation of the Aged Care Workforce Strategy Taskforce Report

recommendations. The ANMF broadly supports the recommendation, but noted the absence of a recommendation for minimum staffing levels. Recommendations to improve wages, qualifications and standards are supported, with the caution, however, that the approach must be holistic and avoid ad hoc measures that may lead to unintended consequences.

RECOMMENDATION 5: REGISTRATION FOR UNREGULATED CARERS

78. The ANMF has further submitted that an important feature of ensuring the capacity and capability of the aged care workforce to deliver safe, quality care is to establish a registration scheme for unregulated aged care workers.

79. The ANMF noted the benefits of registration of the nursing profession, which ensures RNs and ENs are adequately trained to enter the workforce, meet ongoing professional development requirements to maintain registration and are subject to investigation and sanction if reported for failing to meet professional conduct standards. By contrast, the ANMF submits that the lack of regulation of the care workforce increases the risks associated with substandard training, lack of ongoing training and development and lack of accountability for conduct that falls short of required standards.

80. The ANMF has addressed a range of options for the regulation of the currently unregulated care workforce in aged care at:

    i) ANM.0006.0001.0010-13 : Regulation of Aged Care Workforce Submission;

    ii) ANM.0013.0001.0018-19 : Aged Care Workforce Submission [AWF.600.01307];

    iii) ANM.0015.0001.0029-31 : Workforce Submission [AWF.650.00048].

81. Any regulation that establishes a registration scheme for care workers must be designed to protect the public and residents of aged care. Any scheme must be accessible to the public so as to provide confidence that loved ones are being cared for by suitably trained and skilled people.

ADDITIONAL RECOMMENDATIONS

82. In addition to the critical themes and priorities that the ANMF recommends to the Commission should be addressed in the Commission's final report outlined above, this final submission also highlights a range of other matters, addressed in our previous submissions, which will also be important in realising safe, quality care for all Australians.

83. In submission ANM.0006.0001.0001 - Regulation of quality and safety in aged care and how aspects of the current system operate, different approaches to regulation (including in other sectors) and how regulation and oversight of quality and safety in aged care can be improved, August 2019, the ANMF submitted our views of a range of key regulatory matters

and provided comment with regard to current progress on these matters. A summary is provided in paragraphs 84 – 88.

Aged Care Quality Standards

84. From 1 July 2019, new Aged Care Quality standards were introduced and providers required to report data on pressure injuries, use of restraint and unplanned weight loss. The ANMF supports these reporting requirements and recommends the Quality Indicator Program be continually assessed to ensure it is capturing the data effectively and it is being used to improve the quality of care.

Serious Incident Response Schemes (SIRS)

85. The ANMF made recommendations about the features of a serious incident response scheme. Since making that submission the Government has announced SIRS will be implemented from 1 July 2021. Many of the features have been adopted in the SIRS. The ANMF supports the ongoing measures to ensure all incidents that are indicative of failures in delivery of care, substandard care, neglect or abuse are reported. Reported incidents must be investigated, analysed and appropriate measures put in place to minimise or eliminate the risk of further incidents.

Reportable Conduct Scheme

86. In addition, the ANMF expressed support for a reportable conduct scheme. The ANMF considers the development of a reportable conduct scheme, with the ACQS Commission being the regulator for the scheme is an appropriate option to be explored. Such a scheme should have the safety and protection from the risk of harm of aged care recipients as its primary objective, but must also ensure procedural fairness for employees.

Regulation and use of chemical and physical restraint

87. The ANMF noted that the Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019 was a welcome measure which will assist in identifying patterns of concern and should lead to earlier intervention, particularly where incidents of physical restraint appear to be excessive or unwarranted. Such a legislated response to what were alarming public revelations of improper conduct, does not detract from the critical need for appropriate staff numbers, skills and education and training to address the circumstances that give rise to such conduct.

88. The ANMF set out its concerns about the inconsistency of legislation governing the administration of medication across each state and territory, which creates inequity for aged care recipients in relation to the safeguards afforded to them. In addition, care workers are not regulated with respect to medication administration or medication management and there is no mandated perquisite training for care workers in pharmacokinetics and pharmacodynamics as there is for qualified nurses. The risks associated with mismanagement of medication administration can be high, particularly given the complex care needs of residents. The persistent nature of this issue suggests existing safeguards are insufficient to remove sustained risk to aged care recipients. The role of RNs and ENs in ensuring those risks are minimised is essential and must be supported by legislated staffing

levels and skills mix and federal legislation that can be consistently applied across all states and territories.

89. Paragraphs 90 - 94 set out the final range of other matters, as addressed in our previous submissions, which need to be considered and acted upon in realising safe, quality care for all Australians.

Caring for Diverse Populations

90. In submissions ANM.0004.0001.0001 - Person Centred Care, ANM.0012.0001.0001 - Diversity in Aged Care [AWF.600.01309], and ANM.0014.0001.0001 - Aged Care in Regional and Remote Areas [AWF.600.01356], the ANMF noted the importance of acknowledging diversity in meeting the personal care preferences and needs of individuals and communities to ensure safe, quality care.

Dementia Care and Palliative Care

91. In submissions ANM.0003.0001.0001 - Residential Dementia Care [AC 19/965], ANM.0004.0001.0001 - Person-Centred care, ANM.0005.001.0001 - Aspects of care in Residential, Home, and Flexible Aged Care Programs, Rural and Regional Issues for Service Delivery of Aged Care, and Quality of Life for People Receiving Aged Care, the ANMF advocated for the critical need to ensure specialist knowledge and skills in dementia and palliative care are embedded across the aged care workforce in order to improve the quality of care delivery across the aged care sector.

Restorative Care and Reablement

92. In submissions ANM.0005.0001.0000 - Aspects of Care in Residential, Home and Flexible Aged Care Programs, Rural and Regional Issues for Service Delivery of Aged Care, and Quality of Life for People Receiving Aged Care, and ANM.0017.0001.0001 - Aged care Program Redesign: Services for the Future [AWF.660.00041], the ANMF welcomed the Commission's emphasis on a need for greater focus on the provision of restorative care and advocated for strength and mobility programs to be made available, to facilitate improvement in condition and improve quality of life.

Interfaces with health, disability, social service sectors

93. In submissions ANM.0007.0001.0001 - Younger People in Residential Aged Care [AWF.600.01255] and ANM.0016.0001.0001 - Interfaces between the Aged Care System and the Health Care System, the ANMF advocated for the need for greatly improved integration between, particularly residential aged care and the acute care system and the need for more effective interfaces with disability and social service sectors as disability and mental health are often reasons for admission to RACFs at a younger age, and for people in this position to be supported through other more appropriate means.

Nutrition and diet

94. In submissions ANM.0003.0001.000 - Residential Dementia Care Nutrition [AC 19/965] and ANM.0005.0001.001 - Aspects of Care in Residential, Home and Flexible Aged Care Programs, Rural and Regional Issues for Service Delivery of Aged Care, and Quality of Life for People Receiving Aged Care, the ANMF emphasised the importance of nutrition and hydration in a person's quality of life and wellbeing.

CONCLUSION

95. The ANMF acknowledges sector wide reform will require unwavering and ongoing commitment from all parties; implementation of these recommendations alone will not achieve this. It is however the belief of the ANMF that our primary recommendations when acted upon will put in place the pillars upon which meaningful sector wide reform might be achieved, paving the way for further policy action to ultimately deliver an aged care system of which our nation can be proud.

Australians' fear of growing old should not revolve around engagement with services that are put in place to care and support them.

AUSTRALIAN NURSING AND MIDWIFERY FEDERATION

31 July 2020

[i] Aged Care Quality and Safety Commission, 2019, https://www.agedcarequality.gov.au/sites/default/files/media/Fact_sheet_1_Introduction_to_clinical_governance.pdf