

3. Recommendations

Chapter 1: Foundations of the New Aged Care System

Recommendation 1: A new Act

1. The *Aged Care Act 1997* (Cth) should be replaced with a new Act to come into force by no later than 1 July 2023.
2. The new Act should define aged care as:
 - a. support and care for people to maintain their independence as they age, including support and care to ameliorate age-related deterioration in their social, mental and physical capacities to function independently
 - b. supports, including respite for informal carers of people receiving aged care.
3. The objects of the new Act should be to:
 - a. provide a system of aged care based on a universal right to high quality, safe and timely support and care to:
 - i. assist older people to live an active, self-determined and meaningful life, and
 - ii. ensure older people receive high quality care in a safe and caring environment for dignified living in old age
 - b. protect and advance the rights of older people receiving aged care to be free from mistreatment and neglect, and harm from poor quality or unsafe care, and to continue to enjoy rights of social participation accessible to members of society generally
 - c. enable people entitled to aged care to exercise choice and control in the planning and delivery of their care
 - d. ensure equity of access to aged care
 - e. provide advocacy and complaint mechanisms for people receiving aged care
 - f. provide for regular and independent review of the aged care system
 - g. promote innovation in aged care based on research
 - h. promote positive community attitudes to enhance social and economic participation by people receiving aged care.
4. Unless indicated otherwise, the new Act should incorporate provisions giving effect to amendments to the *Aged Care Act 1997* (Cth) and the *Aged Care Quality and Safety Commission Act 2018* (Cth) (as well as to delegated legislation made under those Acts) the subject of other recommendations.

Recommendation 2: Rights of older people receiving aged care

The new Act should specify a list of rights of people seeking and receiving aged care, and should declare that the purposes of the Act include the purpose of securing those rights and that the rights may be taken into account in interpreting the Act and any instrument made under the Act. The list of such rights should be:

- a. for people seeking aged care:
 - i. the right to equitable access to care services
 - ii. the right to exercise choice between available services
- b. for people receiving aged care
 - i. the right to freedom from degrading or inhumane treatment, or any form of abuse
 - ii. the right to liberty, freedom of movement, and freedom from restraint
 - iii. the right of autonomy, the right to the presumption of legal capacity, and in particular the right to make decisions about their care and the quality of their lives and the right to social participation
 - iv. the right to fair, equitable and non-discriminatory treatment in receiving care
 - v. the right to voice opinions and make complaints
- c. for people receiving end-of-life care, the right to fair, equitable and non-discriminatory access to palliative and end-of-life care
- d. for people providing informal care, the right to reasonable access to supports in accordance with needs and to enable reasonable enjoyment of the right to social participation.

Recommendation 3: Key principles

The new Act should:

- a. provide that the paramount considerations in the administration of the Act should be:
 - i. ensuring the safety, health and wellbeing of people receiving aged care
 - ii. putting older people first so that their preferences and needs drive the delivery of care
- b. specify the following principles that should also guide the administration of the Act:

- i. older people should have certainty that they will receive timely high quality support and care in accordance with assessed need
- ii. informal carers of older people should have certainty that they will receive timely and high quality supports in accordance with assessed need
- iii. older people should be supported to exercise choice about their own lives and make decisions to the fullest extent possible, including being able to take risks and be involved in the planning and delivery of their care
- iv. older people should be treated as individuals and be provided with support and care in a way that promotes their dignity and respects them as equal citizens
- v. older people are entitled to pursue (and to be supported in pursuing) physical, social, emotional and intellectual development and to be active and engaged members of the community, regardless of their age or level of physical or cognitive capability
- vi. the relationships that older people have with significant people in their lives should be acknowledged, respected and fostered
- vii. to the fullest extent possible, older people should receive support and care in the location they choose or, where that is not possible, in the setting most appropriate to their circumstances and preferences
- viii. older people are entitled to receive support and care that acknowledges the aged care setting is their home and enables them to live in security, safety and comfort with their privacy respected
- ix. older people should have equal access to support and care irrespective of their location or personal circumstances or preferences
- x. care should be provided in an environment which protects older people from risks to their health
- xi. care and supports should, as far as possible, emphasise restoration and rehabilitation, with the aim of maintaining or improving older people's physical and cognitive capabilities and supporting their self-determination
- xii. Aboriginal and Torres Strait Islander people are entitled to receive support and care that is culturally safe and recognises the importance of their personal connection to community and Country
- xiii. the system should support the availability and accessibility of aged care for all older people, including people of diverse backgrounds and needs and vulnerable people
- xiv. the aged care system should be transparent and provide public access to meaningful and readily understandable information about aged care

- xv. government entities, providers, health care professionals and aged care workers operating in the aged care system should be open, honest and answerable to older people and the wider community for their decisions and actions
- xvi. innovation, continuous improvement and contemporary best practice in aged care are to be promoted
- xvii. older people should be supported to give feedback and make complaints free from reprisal or adverse impacts
- xviii. people receiving aged care should respect the rights and needs of other people living and working within their environment, and respect the general interests of the community in which they live; the rights and freedoms of people receiving aged care should be only limited by the need to respect the rights of other members of their community
- xix. the Australian Government will fund the aged care system at the level necessary to deliver high quality and safe aged care and ensure the aged care system's sustainability, resilience and endurance.

Recommendation 4: Integrated long-term support and care for older people

1. The Australian Government should coordinate the development of an integrated system for the long-term support and care of older people providing for their needs for welfare support, community services directed at enhancing social participation, affordable and appropriate housing, high quality health care, and aged care. This should be achieved through a new National Cabinet Reform Committee on Ageing and Older Australians, to be established between the Australian and State and Territory Governments, and composed of the highest-ranking ministers whose primary responsibility is the care, health and wellbeing of older people.
2. Work on a strategy to develop the integrated system for the long-term support and care of older people should begin immediately. That work should:
 - a. involve consultation with older people; and
 - b. include measures to support the wellbeing of people receiving aged care by connecting and integrating aged care services with the broader community.
3. The strategy should provide for implementation of an integrated system for the long-term support and care of older people within a 10-year period.

Chapter 2: Governance of the New Aged Care System

Recommendation 5: Australian Aged Care Commission

Commissioner
Pagone

1. By 1 July 2023, the Australian Aged Care Commission should be established under the new Act as a corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* (Cth) and:
 - a. be a body corporate, with perpetual succession;
 - b. have a common seal;
 - c. be able to acquire, hold and dispose of real and personal property; and
 - d. be able to sue and be sued in its corporate name.
2. The Australian Aged Care Commission:
 - a. should be constituted by a board appointed to their respective roles by the Governor-General as full-time or part-time members, namely:
 - i. a Presiding Commissioner, who must be appointed as a full-time member
 - ii. a System Commissioner, who must be appointed as a full-time member
 - iii. a Quality Commissioner, who must be appointed as a full-time member, and who acts as Presiding Commissioner in the absence of the Presiding Commissioner
 - iv. a Complaints Commissioner
 - v. a Workforce Development and Planning Commissioner
 - vi. an Aboriginal and Torres Strait Islander Commissioner
 - vii. the Secretary of the Department administered by the responsible Minister, who shall be an ex officio member of the board
 - viii. two additional part-time members who are to be chosen for their integrity, eminence and public standing, each of whom must be independent of any current involvement in the aged care sector, and who should have experience and proven capacity in: aged care, clinical services, human services, legal services, or corporate governance; or in finance, accounting or general business
 - b. shall appoint a Chief Executive Officer and staff, all of whom are to be employed or engaged by the Commission (whether under the provisions of the *Public Service Act 1999* (Cth) or otherwise).

3. The functions of the Australian Aged Care Commission should be:
- a. to maintain and operate a distributed network of offices, including regional offices, to deliver or manage the delivery of assessment and care finding services, administer the aged care program, and provide general assistance to the public
 - b. to manage the system, including support and funding of local assessment and care finding teams and personnel, provision of information on services and providers, system data management, ensuring service availability for all aged care services to which people are assessed as eligible, commissioning and funding of providers to provide aged care services in all locations, analysis of information relating to financial risk presented by approved providers, providing assistance to providers to build capacity where appropriate, and managing the orderly exit of consistently poor-performing providers
 - c. the following particular functions:
 - i. approval of service providers as providers eligible to receive subsidies for providing aged care
 - ii. financial risk monitoring of providers, and prudential regulation of providers
 - iii. approval of the scope of subsidised services approved providers may provide, and accreditation of the services provided
 - iv. payment of subsidies to approved providers of aged care
 - v. quality and safety regulation of approved providers and their services
 - vi. ensuring that appropriate aged care services are widely available for Aboriginal and Torres Strait Islander people
 - vii. workforce planning and development, including setting and refining requirements for minimum staffing levels and minimum qualifications for staff providing care, and (through a workforce planning division within or operated by the Australian Aged Care Commission) ongoing development of workforce capacity through requirements for training and professional development
 - viii. consulting with the Australian Commission on Safety and Quality in Health and Aged Care (which is to be responsible under the new Act for review and setting of quality and safety standards and quality indicators) on reviews and revisions of the standards and indicators for the provision of safe and high quality aged care
 - ix. management of complaints about providers, staff, assessors and care finders

- d. system governance, including the responsibility of continuously monitoring the performance of the system, informing the responsible Minister and Department about new policy and reform proposals for improvement of the performance of the system, limited authority to make subordinate instruments about the details of arrangements for the administration of funding and service delivery, and the ability to raise and recommend amendments of legislation and delegated legislation to the responsible Minister and Department.
4. The responsibilities and functions of the Commissioners should be as follows:
 - a. the Presiding Commissioner should:
 - i. be the senior member of the Commission and chair of the board
 - ii. be responsible for managing the performance of all of the Commission's functions, subject to the joint responsibility of other Commissioners for management of the performance of certain functions specified in subparagraphs b–e below
 - iii. be responsible for governance and direction of the Chief Executive Officer as to the management of the administration of the Commission
 - iv. be, for the purposes of the *Public Governance, Performance and Accountability Act 2013* (Cth), the accountable authority of the Commission
 - b. the System Commissioner should be responsible for managing the performance of the Commission's functions of, and relating to, general management of the system, as described in paragraph 3.b
 - c. the Quality Commissioner should be responsible for managing the performance of the Commission's functions of and relating to:
 - i. the approval of the scope of subsidised services approved providers may provide, and accreditation of the services provided
 - ii. the quality and safety regulation, prudential regulation and financial risk monitoring of approved providers and their services
 - d. the Complaints Commissioner should be responsible for managing the performance of the Commission's functions of, and relating to, the management of complaints about providers, staff, assessors and care finders
 - e. the Workforce Development and Planning Commissioner should be responsible for managing the performance of the Commission's functions of, and relating to, workforce planning and development
 - f. the Aboriginal and Torres Strait Islander Commissioner should be responsible for managing the performance of the Commission's functions and relating to ensuring that appropriate aged care services are widely available for Aboriginal and Torres Strait Islander people

and the Commissioners should have the powers to do all things necessary or convenient to be done for or in connection with the performance of their functions.

5. The Remuneration and allowances of the Commissioners should be determined by the Remuneration Tribunal.
6. The Chief Executive Officer should:
 - a. be appointed by the Presiding Commissioner on the advice of the board of the Commission
 - b. have their remuneration and entitlements determined by the Remuneration Tribunal
 - c. in relation to matters not covered by the Act, hold office on the terms and conditions (if any) that are determined by the Presiding Commissioner on the advice of the board of the Commission
 - d. be required to comply with any written direction by the Presiding Commissioner about the duties of the Chief Executive Officer
 - e. for the purposes of the *Public Service Act 1999* (Cth), and together with the staff of the Australian Aged Care Commission, constitute a Statutory Agency of which the Chief Executive Officer is the 'Agency Head'.
7. The Commission should be independent of Ministerial direction, and there should be a requirement that any expectations or advice provided by the responsible Minister to the Australian Aged Care Commission should be made public.
8. The Commission should be required to:
 - a. report quarterly to the Inspector-General of Aged Care and to the responsible Minister on the performance of its functions, and to publish these reports within one month of being provided to the responsible Minister subject to redaction of contents that are subject to public interest immunity
 - b. lay before the Parliament and to publish an annual report on such aspects of the operation of the Act as the Australian Aged Care Commission considers relevant to ensure an accurate understanding of the operation of the Act, including:
 - i. the extent to which providers are complying with their responsibilities under the Act
 - ii. the amounts paid by people receiving residential care in connection with their care, including amounts paid for accommodation and daily living needs and amounts provided by way of accommodation deposits.

Recommendation 6: Australian Aged Care Pricing Authority

Commissioner Pagone

The Australian Government should establish an Aged Care Pricing Authority and confer on it all necessary functions for determining prices (inclusive of subsidies and user contributions) for specified aged care services so as to meet the reasonable and efficient costs of delivering those services. Its functions should include the function of identifying and recommending to the Australian Aged Care Commission the aged care services for which price cap determinations or other forms of economic regulation may be appropriate.

Recommendation 7: Aged Care Advisory Council

Commissioner Pagone

1. The Minister should appoint an Aged Care Advisory Council, to be constituted by such people of eminence, expertise and knowledge of aged care services as the Minister sees fit, drawn from all relevant aspects of the aged care system, including people receiving aged care, representatives of the aged care workforce, approved providers, health and allied health professionals, specialists in training and education, and independent experts.
2. The Advisory Council should be established with its own secretariat, funded by the Australian Government.
3. The Advisory Council's function should be to provide advice on aged care policy, service arrangements and any aspect of the performance of the aged care system, to the System Governor
4. The Advisory Council should convene itself regularly, and should have authority to provide advice to the System Governor on its own initiative.
5. The System Governor should have authority to convene the Advisory Council on reasonable notice, and may refer particular issues to it for advice.

Recommendation 8: Cabinet Minister and Department of Health and Aged Care

Commissioner Briggs

1. The Australian Government should ensure in all future Ministerial arrangements that there is a senior Cabinet Minister, preferably the Minister for Health and Aged Care, responsible for aged care.
2. The Department of Health should immediately be renamed the Department of Health and Aged Care.

3. The Department should have an Associate Secretary tasked with day-to-day responsibility for aged care, acting as the principal policy adviser to the Minister and the Secretary, leader of aged care administration, and member of the Aged Care Workforce Industry Council.¹
4. The Administrative Arrangements Orders should be amended to provide for the Department to also be responsible for the education, training, development and supply of the aged care workforce.
5. The Department of Health and Aged Care should have a focus on:
 - a. aged care system renewal consistent with the recommendations of the Royal Commission
 - b. personal engagement with older people
 - c. promoting positive attitudes towards ageing and encouraging social and community engagement
 - d. stewardship of the aged care system and all of its component parts, including:
 - i. guiding the aged care sector in the delivery of safe and high quality care
 - ii. building providers' capacity and where necessary managing the exit of poor performers
 - iii. fostering innovation and continuous improvement
 - iv. leadership in support of all Government agencies and aged care and other service providers to ensure that the aged care system as a whole delivers safe and high quality aged care
 - v. proactive management of the interface between aged care services, health services, accommodation services, homelessness and disability services and services for those with diverse needs to ensure that barriers to older people receiving fair and equal access to services are removed, and
 - vi. performance of the aged care system, including whether it is meeting the objects and principles of the Act
 - e. a proactive and ambitious ongoing aged care policy reform agenda
 - f. the planning and delivery of safe and high quality aged care
 - g. program design, development and delivery
 - h. research, evaluation and statistical analysis
 - i. funding for the aged care system
 - j. determining user contributions to the cost of aged care services

Recommendation 9: The Council of EldersCommissioner
Briggs

The Australian Government should, by 1 July 2021, establish a high-level older people’s advisory body—The Council of Elders—with a wide remit to consult older people and advise the Minister and Department on any aspect of aged care from the perspective of the quality and safety of care and the rights and dignity of older people.

Recommendation 10: Aged Care Safety and Quality AuthorityCommissioner
Briggs

1. The Aged Care Quality and Safety Commission should be abolished by 1 July 2022 and replaced by an independent Aged Care Safety and Quality Authority, overseen by a board made up of up to five members, with a Chief Executive Officer responsible to the Authority.
2. The Authority should have the overarching purpose of safeguarding the quality and safety of aged care through enforcing compliance with the Act and Standards. In carrying out this purpose, the Authority should actively engage with older people and their families and carers to ensure that their views are incorporated in the Authority’s compliance and decision-making, and are kept informed of the outcome of regulatory activities.
3. The functions of the Authority are to:
 - a. approve and accredit providers
 - b. monitor and assess compliance with the quality and safety obligations required of providers under the new Aged Care Act
 - c. address non-compliance with quality and safety obligations by taking enforcement action including:
 - i. enforceable undertakings
 - ii. directions
 - iii. civil penalties on directors
 - iv. amending approval or accreditation conditions
 - v. appointing an administrator to assume responsibility for the conduct of a service
 - vi. revocation of approval as an approved provider or withdrawal of accreditation of a service
 - d. investigate and respond to complaints about the aged care system

- e. provide timely and accurate data as specified by the Department for inclusion in the national information service, including information on compliance and accreditation activities, serious incident reporting and complaints by provider and service
 - f. publish information on the outcomes of regulatory actions, including information on system-wide regulatory activity and outcomes, and publication of enforcement action taken against individual providers
 - g. do anything incidental or conducive to the performance of any of the above functions.
4. The Authority should be fully funded from Budget appropriations.
 5. The Authority's staff will be employed under the *Public Service Act 1999* (Cth). The Authority should ensure that it maintains an appropriate regulatory capability, including regulatory and investigatory skills, clinical skills, assessment skills, and enforcement skills.

Recommendation 11: Independent Hospital and Aged Care Pricing Authority

Commissioner
Briggs

The legislation establishing the Independent Hospital Pricing Authority should be amended by 1 July 2021 to rename the Authority as the Independent Hospital and Aged Care Pricing Authority and confer upon it the functions relating to aged care set out in Recommendation 115.

Recommendation 12: Inspector-General of Aged Care

1. The Australian Government should establish an independent office of the Inspector-General of Aged Care to investigate, monitor and report on the administration and governance of the aged care system. This should be done by:
 - a. conducting reviews on its own motion and/or at the request of the System Governor or the Minister or Parliament to ensure the quality and safety of aged care
 - b. reviewing regulator decisions on a systematic basis to ensure regulator integrity and performance
 - c. reviewing the performance of functions by the System Governor, the Quality Regulator, the Prudential Regulator and the Pricing Authority
 - d. monitoring the adequacy of aged care data collection and analysis

- e. monitoring the implementation of the reforms recommended by the Royal Commission, and
 - f. reporting annually to the Australian Parliament on systemic issues in the aged care system and the extent to which the aged care system attains the objects of the new Act.
2. The Inspector-General should have a statutory right of access to all documents and data related to aged care held by the System Governor, the Quality Regulator, the Prudential Regulator and the Pricing Authority.
 3. The Inspector-General of Aged Care should have responsibility for dealing with complaints about the System Governor, the Quality Regulator, the Prudential Regulator and the Pricing Authority.
 4. An Inspector-General should be appointed under interim administrative arrangements, and should in due course be established formally under the new Act.
 5. The Inspector-General should have a separate appropriation and its own staffing, and be housed separately from the System Governor.

Chapter 3: Quality and Safety

Recommendation 13: Embedding high quality aged care

1. The *Aged Care Act 1997* (Cth) should be amended to provide that the Australian Commission on Safety and Quality in Health and Aged Care, in setting and amending safety and quality Standards for aged care (under the functions referred to in Recommendation 18), give effect to the following characteristics of high quality aged care:
 - a. diligent and skilful care
 - b. safe and insightful care
 - c. caring and compassionate relationships
 - d. empowering care
 - e. timely care.

2. 'High quality' care puts older people first. It means a standard of care designed to meet the particular needs and aspirations of the people receiving aged care. High quality care shall:
 - a. be delivered with compassion and respect for the individuality and dignity of the person receiving care
 - b. be personal and designed to respond to the person's expressed personal needs, aspirations, and their preferences regarding the manner by which their care is delivered
 - c. be provided on the basis of a clinical assessment, and regular clinical review, of the person's health and wellbeing, and that the clinical assessment will specify care designed to meet the individual needs of the person receiving care, such as risk of falls, pressure injuries, nutrition, mental health, cognitive impairment and end-of-life care
 - d. enhance to the highest degree reasonably possible the physical and cognitive capacities and the mental health of the person
 - e. support the person to participate in recreational activity and social activities and engagement.

Recommendation 14: A general duty to provide high quality and safe care

1. The new Act should include a general, positive and non-delegable statutory duty on any approved provider to ensure that the personal care or nursing care they provide is of high quality and safe so far as is reasonable, having regard to:
 - a. the wishes of any person for whom the provider provides, or is engaged to provide, that care
 - b. any reasonably foreseeable risks to any person to whom the provider provides, or is engaged to provide, that care, and
 - c. any other relevant circumstances.
2. Any entity that facilitates the provision of aged care services funded in whole or in part under the new Act should have a duty to ensure that any worker whom it makes available to perform personal care work has the experience, qualifications, skills and training to perform the particular personal care or nursing care work the person is being asked to perform.

Recommendation 15: Establishment of a dementia support pathway

1. By 1 January 2023, the Australian Government should establish a comprehensive, clear and accessible post-diagnosis support pathway for people living with dementia, their carers and families. This should involve:
 - a. providing information and advice on dementia and support services, including the aged care system
 - b. facilitating access to peer support networks
 - c. providing education courses, counselling and support services
 - d. providing assistance with planning for continued independent living and access to care, including regular and planned respite for carers.
2. The Australian Government should provide information and material to general practitioners and geriatricians about the pathway and encourage them to refer people to the pathway at the point of diagnosis.

Recommendation 16: Specialist dementia care services

1. By 1 July 2023, the Australian Government should review and publicly report on:
 - a. whether the number of Specialist Dementia Care Units established or planned to be established is sufficient to address need within the areas and populations they are designed to cover
 - b. the capacity of those Units to address the needs of people exhibiting extreme changed behaviour and whether any further resources are required, and
 - c. the suitability of the Units for shorter-stay respite for people living with moderate to extreme changed behaviour
2. The outcome of the review should be implemented by the Australian Government as a matter of urgency.
3. The Australian Government should immediately ensure that the specialist dementia service it funds provides treatment to people with a mental health condition if they meet other eligibility criteria (including, for instance, a diagnosis of dementia).

Recommendation 17: Regulation of restraints

1. The *Quality of Care Principles 2014* (Cth) should be amended by 1 January 2022 to provide that the use of restrictive practices in aged care must be based on an independent expert assessment and subject to ongoing reporting and monitoring. The amendments should reflect the overall principle that people receiving aged care should be equally protected from restrictive practices as other members of the community. In particular, restrictive practices should:
 - a. be prohibited unless:
 - i. recommended by an independent expert, accredited for the purpose by the Quality Regulator, as part of a behaviour support plan lodged with the Quality Regulator and reviewed quarterly by the expert, with reports on implementation of the behaviour support plan being provided to the Quality Regulator on a monthly basis, or
 - ii. when necessary in an emergency to avert the risk of immediate physical harm, with any further use subject to recommendation by an independent expert under Recommendation 17(1)(a)(i), and with a report of the restraint to be provided with reference to the matters in Recommendation 17(1)(b) as soon as practicable after the restraint starts to be used; and
 - b. only be used:
 - i. as a last resort to prevent serious harm after the approved service provider has explored, applied and documented alternative, evidence-based strategies to mitigate the risk of harm
 - ii. to the extent necessary and proportionate to the risk of harm
 - iii. for the shortest time possible to ensure the safety of the person or others
 - iv. subject to monitoring and regular review (to be stipulated in the behaviour support plan) by an approved health practitioner
 - v. in accordance with relevant State or Territory laws and with the documented informed consent of the person receiving care or someone authorised by law to give consent on that person's behalf
 - vi. in the case of chemical restraint, if prescribed by a doctor who has documented the purpose of the prescription.
2. In making these amendments, the Australian Government should consider whether any adjustments or additions are warranted as a result of the statutory review of Part 4A of the *Quality of Care Principles 2014* (Cth).

3. The amendments should also provide that:
 - a. any use of restrictive practices that is not in accordance with the statutory scheme should be reportable under the updated serious incident reporting scheme, and
 - b. any breach of the statutory requirements should expose the approved provider to a civil penalty at the suit of the regulator. If a person directly affected by the breach wants to be compensated, the regulator or the person should have the power to seek an order for compensation.
4. In the interim, the repeal of Part 4A of the *Quality of Care Principles 2014* (Cth) should be delayed until 31 December 2021.
5. Following the conclusion of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, the Australian Government should consider the applicability to aged care of any findings from that Royal Commission about restrictive practices and make further legislative amendments required to ensure that the treatment of people receiving aged care services is consistent with the treatment of other members of the community.

Recommendation 18: Aged care standard-setting by the renamed Australian Commission on Safety and Quality in Health and Aged Care

1. Section 9 of the *National Health Reform Act 2011* (Cth) should be amended to:
 - a. rename the Australian Commission on Safety and Quality in Health Care as the 'Australian Commission on Safety and Quality in Health and Aged Care', and
 - b. confer upon that body the functions of formulating standards, guidelines and indicators relating to aged care safety and quality.
2. Amendments to section 10 of the *National Health Reform Act 2011* (Cth) should also be made to provide for a consultation process for the Commission's aged care functions.

Recommendation 19: Urgent review of the Aged Care Quality Standards

1. By 15 July 2021, the responsible Minister should refer to the Australian Commission on Safety and Quality in Health and Aged Care the following matters for urgent review and, if the Commission considers appropriate, amendment of the Aged Care Quality Standards:
 - a. requiring best practice oral care, medication management, pressure injury prevention, wound management, continence care, falls prevention and mobility, and infection control, and providing sufficient detail on what these requirements involve and how they are to be achieved
 - b. imposing appropriate requirements to meet resident nutritional needs and ensure meals are desirable to eat, having regard to a person's preferences and religious and cultural considerations
 - c. sufficiently reflecting the needs of people living with dementia and providing high quality dementia care
 - d. provider governance, and
 - e. high quality palliative care in residential aged care, including staff capacity (number, skill and type), processes and clinical governance, for recognising deterioration and dying.
2. The Australian Commission on Safety and Quality in Health and Aged Care should complete its review by 31 December 2022.

Recommendation 20: Periodic review of the Aged Care Quality Standards

The renamed Australian Commission on Safety and Quality in Health and Aged Care should complete a comprehensive review of the Aged Care Quality Standards within three years of taking on the standard-setting function and every five years after that. It should also be empowered to undertake ad hoc reviews and make corresponding amendments either of its own motion or where issues are referred to it for consideration by the System Governor, the Inspector-General of Aged Care or the responsible Minister.

Recommendation 21: Priority issues for periodic review of the Aged Care Quality Standards

By 1 July 2022, the responsible Minister should refer the following matters for the Australian Commission on Safety and Quality in Health and Aged Care to consider as part of its first comprehensive review of the Aged Care Quality Standards:

- a. imposing appropriate requirements relating to the professional development and training for staff
- b. including sufficient reference to and delineation between staff practice roles and responsibilities
- c. requiring providers to assist people receiving care to make and update advance care plans if they wish to, and ensuring that those plans are followed
- d. reflecting the Aged Care Diversity Framework and underlying Action Plans, including considering making them mandatory
- e. incorporating elements of care delivery which reflect a focus on the quality of life of people receiving care.

Recommendation 22: Quality indicators

1. By 15 July 2021, the responsible Minister should refer to the Australian Commission on Safety and Quality in Health and Aged Care responsibility for the introduction, implementation and amendment of aged care quality indicators, including:
 - a. ongoing research into the use and evidence basis for quality indicators
 - b. publication of guidance on use of indicator data to identify risks and to undertake evidence-based risk management.
2. By 1 July 2023, the Australian Commission on Safety and Quality in Health and Aged Care should:
 - a. expand the quality indicators for care in residential aged care
 - b. develop quality indicators for care at home, and
 - c. implement a comprehensive quality of life assessment tool for people receiving aged care in residential care and at home.
3. In the interim, in addition to the existing commitment to implement quality indicators in the new domains of falls and fractures and medication management, the Australian Government should expand the National Mandatory Indicator Program, as set out in the 2019 PwC Consultation Paper 'Development of Residential Aged Care Quality Indicators', to use more comprehensive indicators for the existing domains of pressure injuries, physical restraint and unplanned weight loss.

Recommendation 23: Using quality indicators for continuous improvement

By 1 July 2022, the Australian Government should implement reporting and benchmarking of provider performance against quality indicators. To achieve this:

- a. the Australian Commission for Safety and Quality in Health and Aged Care should develop a methodology to enable providers to be benchmarked against similar providers
- b. the Australian Government should track sector and provider performance and set progressive improvement targets to raise performance against quality indicators over time
- c. the Australian Government should publicly report on sector and provider performance against benchmarks.

Recommendation 24: Star ratings: performance information for people seeking care

1. By 1 July 2022, the Australian Government should develop and publish a system of star ratings based on measurable indicators that allow older people and their families to make meaningful comparisons of the quality and safety performance of services and providers. The star ratings and accompanying material should be published on My Aged Care.
2. The star ratings should incorporate a range of measurable data and information, including, at a minimum:
 - a. graded assessment of service performance against Standards
 - b. performance against relevant clinical and quality indicators
 - c. staffing levels
 - d. robust information from people receiving aged care services, their families and advocates, when available.
3. The overall star rating should be accompanied by appropriate additional information on performance and outcomes, in a readily understandable form and capable of comparison across services and providers. This should include all performance information that is relevant to the performance of a service, even if it is not reflected in the overall star rating outcome. For example, it should include:
 - a. details about current and previous assessment by the Quality Regulator, including notices of non-compliance, sanctions, withdrawal of accreditation or approved provider status
 - b. benchmarked performance for all quality indicators that are suitable for publication, including changes in performance over time

- c. information from older people, their families and advocates
- d. serious incident reports data
- e. complaints data.

4. The Australian Aged Care Commission should assume responsibility for the star ratings system from 1 July 2023 onwards.

Commissioner
Pagone

Chapter 4: Program Design

Recommendation 25: A new aged care program

By 1 July 2024, the System Governor should implement a new aged care program that combines the existing Commonwealth Home Support Programme, Home Care Packages Program, and Residential Aged Care Program, including Respite Care and Short-Term Restorative Care. The new program should retain the benefits of each of the component programs, while delivering comprehensive care for older people with the following core features:

- a. a common set of eligibility criteria identifying a need (whether of a social, psychological or physical character) to prevent or delay deterioration in a person's capacity to function independently, or to ameliorate the effects of such deterioration, and to enhance the person's ability to live independently as well as possible, for as long as possible
- b. an entitlement to all forms of support and care which the individual is assessed as needing
- c. a single assessment process based upon a common assessment framework and arrangements followed by all assessors
- d. certainty of funding and availability based upon assessed need
- e. genuine choice and flexibility accorded to each individual about how their aged care needs are to be met (including choice of provider and level of engagement in managing care, and appropriate and adapted supports to enable people from diverse backgrounds and experiences to exercise choice)
- f. access to one or multiple categories of the aged care program simultaneously, based on need
- g. portability of entitlement between providers throughout Australia.

Recommendation 26: Improved public awareness of aged care

1. By 1 July 2022, the System Governor in cooperation with other levels of government, and working with health professionals, aged care providers and Primary Health Networks, should fund and support education, and the dissemination of information, and strategies to:
 - a. improve public awareness of the resources available to assist people to plan for ageing and potential aged care needs
 - b. improve knowledge about aged care among those responsible professionals with whom older people have frequent contact
 - c. encourage public discussion about and consideration of aged care needs.
2. These strategies should be implemented by 1 July 2022 and should:
 - a. support continual planning for ageing, including consideration of health care preferences, finances, housing and social engagement
 - b. bring older people's general practitioners to the centre of planning for ageing and aged care; and
 - c. be evaluated and revised annually by the System Governor.

Recommendation 27: More accessible and usable information on aged care

Commissioner
Briggs

The Australian Government should continue to enhance My Aged Care to ensure it is the Government's official source of consistent, accessible, inclusive, reliable and useful information about the aged care system and aged care providers. This should include developing a comprehensive provider search function on My Aged Care that allows people to review and compare:

- a. information on the kinds of services the provider delivers, including whether providers of home care services offered in regional, rural and remote areas are locally available.
- b. information on service capacity and use
- c. information on star ratings and other performance indicators (as detailed in Recommendation 24 in the quality and safety chapter)
- d. annual reports from approved providers about their operations and performance (as detailed in Recommendation 88 in the provider governance chapter)
- e. all information at (a) to (d) will be standardised and verified by the System Governor.

Recommendation 28: A single comprehensive assessment process

1. By 1 July 2023, the Australian Government should replace the Aged Care Assessment Program and the Regional Assessment Services with one assessment process. That assessment process should:
 - a. be undertaken by an assessor who is independent from approved providers, so that a person's level of funding should be determined independently of the approved provider
 - b. occur, wherever possible, before funded services commence, although funded services may be offered on an interim basis pending assessment where this is necessary in the opinion of a care finder
 - c. be efficient and scalable according to the complexity of needs and vulnerability of the older person
 - d. be forward-looking and promote older people's autonomy and self-determination
 - e. include assessment of the need for care management and the intensity and complexity of that need
 - f. include an assessment of any informal carer's needs
 - g. use multidisciplinary teams for more complex needs.
2. People should be provided with details of their assessed need and funding level at the conclusion of the assessment process.
3. Reasonable requests for reassessment of need can be made by a person receiving care (or their informal carer, close family or other representative), their care finder, or their approved provider.
4. The determination referred to in 1.a may involve consultation with providers or prospective providers, provided final assessment decisions affecting eligibility for funding are made by independent assessors.

**Commissioner
Pagone**

Recommendation 29: Care finders to support navigation of aged care

1. From 1 July 2023, the Australian Government should fund the engagement of a workforce of personal advisers to older people, their families and carers, called 'care finders'.
2. The function of care finders will be to assist older people seeking aged care services with information about the aged care system and case management services by:

**Commissioner
Briggs**

- a. providing face-to-face support to older people to help them identify the best options for care to meet their individual needs and goals, to exercise informed choice, and to understand their entitlements. That support should be scalable and proportionate to need and vulnerability
 - b. assisting older people to understand, gain access to and participate in assessments and reassessments of needs and eligibility for aged care, and work closely with the local assessment team to facilitate the assessment process
 - c. ascertaining the best options for services in the local area and link them to these options. This may also involve linking the older person to services outside the aged care system, such as housing, mental health or health care more generally
 - d. following up to make sure that referrals have been accepted and the support and care identified in the assessment is in place
 - e. conducting regular check-ins with the older person to ensure that the services are meeting their needs
 - f. where changes in needs occur, or services are not meeting needs, taking the necessary steps in consultation with the older person, including reassessment or referrals to services.
3. Care finders will be employees of the System Governor, a State or Territory or a local government body, who are suitably qualified in aged care, health care or social work.

Recommendation 30: Designing for diversity, difference, complexity and individuality

1. From 1 July 2022, the System Governor should:
 - a. require that:
 - i. as a condition of approval or continued approval of providers, training on cultural safety and trauma-informed service delivery be provided for all workers engaged by providers who are involved in direct contact with people seeking or receiving services in the aged care system
 - ii. comparable training be provided for people engaged to provide care finder and assessment services
 - iii. as a condition of approval or continued approval, providers verify to the satisfaction of the System Governor that the provider has proper grounds for making any representation of being able to provide specialised services for groups of people with diverse backgrounds and life experiences

- b. formulate a standard dataset and data collection mechanism for collecting, monitoring, analysing and using data about the diverse backgrounds and life experiences of older people seeking or receiving aged care, including, as considered appropriate, people whose circumstances are not currently included in the 'special needs' provision, such as those living with mental illness, dementia or disability, and
- c. commence collection and analysis of those data for the purpose of identifying variations in and improving equity of access to, and use of, aged care by people of diverse backgrounds and experiences (subject to the operation of the *Privacy Act 1988* (Cth)).

2. The System Governor should:

- a. by 1 July 2024, in consultations with representative and peak organisations, complete a national audit evaluating regional and local variation in levels of services for people from diverse backgrounds and life experiences, including consumer experience information, and, in light of the outcomes of the national audit, thereafter undertake commissioning arrangements to address deficits in meeting the needs of people from diverse backgrounds on a regional and local basis as required
- b. by 31 December 2024, report to the Inspector-General and the public on the extent to which the needs of diverse older people are being met by the aged care system and what further steps need to be taken for the aged care system to meet the needs of diverse older people.

Recommendation 31: Approved provider's responsibility for care management

1. From 1 July 2022, a person's approved provider must assign a care manager to the person unless an assessment team has assessed the person as eligible for home care and, in future, 'care at home' without the need for any care management.
2. In the case of home care and, in future, 'care at home', if the person has more than one approved provider, the person's lead provider must assign a care manager to the person.
3. Care management should be scaled to match the complexity of the older person's needs and should be provided in a manner that respects any wishes of the person to be involved in the management of their care.
4. The care manager should:
 - a. have relevant qualifications and experience suitable for the range and complexity of the care needs of the people to whom the care manager provides care management

- b. consult with the person and, if applicable, their carer, to develop a comprehensive support and care plan, including activities to promote various aspects of health and wellbeing and to enhance their ability to live or participate in the community and address their strengths, capability, aspirations and goals
- c. implement, monitor and review the support and care plan, and adjust as appropriate
- d. meet the requirements for care management set out in the person's care plan and (if applicable) personalised budget for home care and, in future, 'care at home'
- e. for residential care:
 - i. identify when the older person accessing aged care services requires additional care beyond the usual services provided by the approved provider
 - ii. take reasonable steps to ensure that the older person in aged care accesses appropriate health care at an appropriate time
 - iii. take reasonable steps to ensure that any health care plan is implemented on an ongoing basis and updated as required
 - iv. liaise with general practitioners, other primary health care providers, including allied health care providers, specialists and multidisciplinary outreach services; and take reasonable steps to ensure that staff of the provider are available to support visiting health practitioners
 - v. liaise with the person's family and staff of the aged care provider.

Recommendation 32: Respite supports category

From 1 July 2022, the Australian Government should implement a respite supports category within the aged care program that:

- a. supports the availability of respite for the carers of older people earlier and more often to maintain their wellbeing and to sustain the caring relationship
- b. provides a greater range of high quality respite support in people's homes, in cottages and in purpose-built facilities
- c. provides people with up to 63 days of respite per calendar year
- d. is grant funded with a potential capital component in areas where supply is inadequate.

Recommendation 33: Social supports category

From 1 July 2022, the Australian Government should implement a social supports category within the aged care program that:

- a. provides supports that reduce and prevent social isolation and loneliness among older people
- b. can be coordinated to the greatest practicable extent in each location with services and activities provided by local government, community organisations and business designed to enhance the wellbeing of older people
- c. includes centre-based day care and the social support, delivered meals and transport service types from the Commonwealth Home Support Programme
- d. is grant funded.

Recommendation 34: Assistive technology and home modifications category

From 1 July 2022, the Australian Government should implement an assistive technology and home modifications category within the aged care program that:

- a. provides goods, aids, equipment and services that promote a level of independence in daily living tasks and reduces risks to living safely at home
- b. includes the assistive technology, home modifications and hoarding and squalor service types from the Commonwealth Home Support Programme
- c. is grant funded.

Recommendation 35: Care at home category

The System Governor should be in a position to commence payment of subsidies for service provision within a new care at home category by 1 July 2024. This category should be developed and iteratively refined in consultation with the aged care sector and older people. The starting point for this consultation and refinement process should be that this category:

- a. supports older people living at home to preserve and restore capacity for independent and dignified living to the greatest extent and prevents inappropriate admission to long-term residential care

- b. offers episodic or ongoing care from low needs (for example, one hour of domestic assistance per week) to high needs (for example, multiple hours of personal care and nursing care)
- c. provides a form of entitlement (such as, for example, a budget) based on assessed needs which allows for a coordinated and integrated range of care and supports across the following domains:
 - i. care management
 - ii. living supports, including cleaning, laundry, preparation of meals, shopping for groceries, gardening and home maintenance
 - iii. personal, clinical, enabling and therapeutic care, including nursing care, allied health care and restorative care interventions
 - iv. palliative and end-of-life care
- d. requires a lead provider to be chosen by the older person. The lead provider will:
 - i. be responsible for ensuring that services are delivered to address the assessed needs
 - ii. monitor the status of people receiving care and adjust the nature and intensity of the care to meet the person's needs
 - iii. seek a reassessment if an increased need persists beyond three months.

Recommendation 36: Care at home to include allied health care

1. From 1 July 2023, the System Governor should ensure care at home includes a level of allied health care appropriate to each person's needs.
2. From 1 July 2024, System Governor should:
 - a. ensure that the assessment process for eligibility for care at home identifies any allied health care that an older person needs to restore their physical and mental health to the highest level possible (and maintain it at that level for as long as possible) to maximise their independence and autonomy
 - b. ensure that the funding assigned to the older person following the assessment includes an amount to meet any identified need for allied health care, whether episodic or ongoing. This allocation must be spent on allied health care and be consistent with practice guidelines developed by the System Governor

- c. require the older person's lead home care provider to:
 - i. be responsible for ensuring that these services are delivered
 - ii. monitor the status of people receiving care and adjust the nature and intensity of the care provided to meet their needs
 - iii. seek a new aged care assessment if an increased need persists beyond three months
- d. reimburse the provider for the cost of any additional allied health care needed by the older person through an adjusted Home Care Package, without the need for a new aged care assessment, for a period of up to three months, and undertake a new aged care assessment if the need for additional services persists beyond three months.

Recommendation 37: Residential care category

1. From 1 July 2024, the System Governor should implement a category within the new aged care program for residential care that:
 - a. provides older people with:
 - i. goods, aids, equipment and services to meet daily living needs
 - ii. accommodation
 - iii. care and support to preserve and, where possible, restore capacity for meaningful and dignified living in a safe and caring environment
 - b. ensures care is available for people who can no longer live at home due to their frailty, vulnerability or behavioural and psychological symptoms of dementia, or other reasons
 - c. provides integrated and high quality and safe care based on assessed needs, which allows for personalised care, regular engagement, and a coordinated and integrated range of supports across the following domains:
 - i. care management
 - ii. social supports, including support for psychological, cultural and (if applicable) spiritual wellbeing
 - iii. personal, clinical, enabling, therapeutic care and support, including nursing care and allied health care
 - iv. palliative and end-of-life care.

Recommendation 38: Residential aged care to include allied health care

To ensure residential aged care includes a level of allied health care appropriate to each person's needs, the System Governor should, by no later than 1 July 2024:

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <p>a. require providers to have arrangements with allied health professionals to provide services to people receiving care as required by their assessment or care plan</p> | <p>Commissioner Pagone</p> |
| <p>b. require approved providers to:</p> <ul style="list-style-type: none"> i. employ, or otherwise retain, at least one of each of the following allied health professionals: an oral health practitioner, a mental health practitioner, a podiatrist, a physiotherapist, an occupational therapist, a pharmacist, a speech pathologist, a dietitian, an exercise physiologist, and a music or art therapist ii. have arrangements with optometrists and audiologists to provide services as required to people receiving care | <p>Commissioner Briggs</p> |
| <p>c. provide funding to approved providers for the engagement of allied health professionals through a blended funding model, including:</p> <ul style="list-style-type: none"> i. a capped base payment per resident designed to cover about half of the costs of establishing ongoing engagement of allied health professionals ii. an activity based payment for each item of direct care provided with the Pricing Authority determining the quantum of funding for the base payment and the level of activity based payments, including by taking into account the extra costs of providing services in regional, rural and remote areas | |
| <p>d. ensure that providers provide allied health services to residents in accordance with their individual care plans through the strict monitoring of the level of allied health services that are actually delivered, including the collection and review of data on:</p> <ul style="list-style-type: none"> i. the number of full-time equivalent allied health professionals delivering services ii. the number of current allied health assessments iii. the volume of service provision, and iv. expenditure on allied health services. | |

Recommendation 39: Meeting preferences to age in place

The Australian Government should clear the Home Care Package waiting list, otherwise known as the National Prioritisation System, by:

- a. immediately increasing the Home Care Packages available and allocating a package to all people on the waiting list that do not yet have a package or do not yet have a package at the level they have been approved for (as set out in their letter from the Aged Care Assessment Team / Service). The package allocated should be at the level the person was approved for (Level 1, 2, 3 or 4). This must be completed by 31 December 2021
- b. keeping the waiting list clear by allocating a Home Care Package at the approved level to any new entrants to the waiting list within one month of the date of their assessment. This must occur between 1 January 2022 and 1 July 2024
- c. publicly reporting, each quarter, the status of the waiting list, showing progress in clearing the waiting list as set out in paragraphs a. and b. above, at a national, State or Territory, and regional level. This report should include reasons for delay in clearing the waiting list and actions being taken to address the delay. This must occur every quarter from 31 March 2021 to 1 July 2024
- d. pending the establishment of the care finder workforce, the Government should immediately establish a short-term program to link people allocated a Home Care Package with appropriate providers and to encourage the expansion of the home care sector. The 50-day requirement to accept a Home Care Package should be increased to 150 days.

Recommendation 40: Transition to care at home

1. The Australian Government should commence the transition to the care at home category by ensuring:
 - a. from 1 July 2022, any older person that is accessing the Home Care Packages Program can also access supports from the new respite or social support grant categories. These supports should be in addition to the Home Care Package and not be paid for from Home Care Package funds. This should also apply to the assistive technology and home modifications category, but a short assessment should be undertaken to determine the needs of older people for this category
 - b. from 1 December 2023, all older people who are assessed for aged care in their home, should be assessed for a Home Care Package level as well as the equivalent classification in the new care at home category

- c. between 1 July 2024 and 1 July 2025, any older people who are still accessing the Home Care Packages Program (and do not yet have a care at home classification) should be assessed for a care at home classification, so long as the classification does not disadvantage the person (for example, it does not offer lower funding than they had been receiving under the Home Care Packages Program).
2. To support this transition, the Australian Government should increase the assessment workforce between 1 July 2023 and 1 July 2025.

Recommendation 41: Planning based on need, not rationed

By 1 July 2024, the System Governor should replace the Aged Care Provision Ratio with a new planning regime which:

- a. supports a funding allocation that is sufficient to meet people's entitlements for their assessed need
- b. provides for demand-driven access to aged care based on assessed need
- c. funds cost-effective enabling care in the interests of people who need such care
- d. collects data to monitor outputs and outcomes, and
- e. aligns planning boundaries for Aged Care Planning Regions with boundaries based on Primary Health Network regions so that aged care planning is aligned with primary health care and hospital planning.

Chapter 5: Informal Carers and Volunteers

Recommendation 42: Support for informal carers

The Australian Government should improve services and support for informal carers by:

- a. linking My Aged Care and the Carer Gateway by 1 July 2022, so that informal carers need only use one system to secure respite care and the full range of information, training and support services available on both sites
- b. on and from 1 July 2022:
 - i. enabling direct referral and information sharing for informal carers between My Aged Care, care finders, assessment services and the Carer Gateway

- ii. providing accurate and up-to-date information on My Aged Care about the range of supports locally available to informal carers, including training, education, counselling, respite, income support, and, access to the Carers Hub network (once established)
- c. on and from 1 July 2023:
 - i. requiring My Aged Care, care finders and assessment services to identify the primary informal carer when assessing a person for aged care
 - ii. enabling care finders to refer the primary informal carer to assessment services for assessment for, and access to, formal respite care and other supports available
 - iii. establishing and funding a community-based Carers Hub network.

Recommendation 43: Examination of Leave for Informal Carers

Commissioner
Briggs

1. By 30 September 2022, the Australian Government should examine the potential impact of amending the National Employment Standards under Part 2-2 of the *Fair Work Act 2009* (Cth) to provide for an additional entitlement to unpaid carer's leave.
2. The results of this investigation should be made public by 31 December 2022.

Recommendation 44: Volunteers and Aged Care Volunteer Visitors Scheme

From 1 July 2021, the Australian Government should promote volunteers and volunteering in aged care to support older people to live a meaningful and dignified life and supplement the support and care provided to them through the aged care system, whether in their own home or in a residential care home, by:

- a. increasing the funding to the Volunteer Grants under the Families and Communities Program – Volunteer Grants Activity in 2021–22 to support organisations and community groups to recruit, train and support volunteers who provide assistance to older people
- b. requiring, as a condition of approval and continuing approval of all approved providers, that all aged care services which use volunteers to deliver in-house coordinated and supervised volunteer programs must:
 - i. assign the role of volunteer coordination to a designated staff member

- ii. provide induction training to volunteers and regular ongoing training to volunteers in caring for and supporting older people, complaints management and the reporting of reasonably suspected abuse or neglect
- iii. retain evidence of provision of such training
- c. providing additional funding, and expanding the Community Visitors Scheme and changing its name to the Aged Care Volunteer Visitors Scheme, to provide extended support for older people receiving aged care who are at risk of social isolation.

Chapter 6: Aged Care Accommodation

Recommendation 45: Improving the design of aged care accommodation

The Australian Government should guide the design of the best and most appropriate residential aged care accommodation for older people by:

- a. developing and publishing by 1 July 2022 a comprehensive set of National Aged Care Design Principles and Guidelines on accessible and dementia-friendly design for residential aged care, which should be:
 - i. capable of application to ‘small household’ models of accommodation as well as to enablement and respite accommodation settings
 - ii. amended from time to time as necessary to reflect contemporary best practice
- b. implementing by no later than 1 July 2023 a program to promote adoption of these National Aged Care Design Principles and Guidelines in design and construction of residential aged care buildings, which should include:
 - i. industry education, including sharing of best practice models
 - ii. financial incentives, whether by increased accommodation supplements or capital grants or other measures or a combination of such measures, for residential aged care buildings that comply with the Guidelines
- c. advancing to the National Federation Reform Council by 1 July 2025 a proposal for any amendments to Class 9c of the *National Construction Code* to reflect accessible and dementia-friendly design standards for new residential aged care buildings, or those proposed to be substantially refurbished, according to specifications informed by the National Aged Care Design Principles and Guidelines.

Recommendation 46: Capital grants for ‘small household’ models of accommodation

1. From 1 January 2022, the Australian Government should provide additional capital grants for building or upgrading residential aged care facilities to provide small-scale congregate living.
2. The amount of annual grant funding should be increased to \$300 million in 2021–22, \$600 million in 2022–23 and \$1 billion in 2023–24, and should be indexed for inflation in subsequent years.
3. Priority for these capital grants should be given to approved providers whose premises have or will have a majority of aged care residents who are (within the meaning of section 7 of the *Grant Principles 2014* (Cth)) in one or more of the following categories:
 - a. low-means care recipients, supported residents, concessional residents or assisted residents
 - b. people with special needs
 - c. people who live in a location where there is a demonstrated need for additional residential care services
 - d. people who do not live in a major city.
4. The capital grants program for building or upgrading residential aged care facilities to provide small-scale congregate living should continue after the introduction of the new Act.

Commissioner
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Chapter 7: Aged Care for Aboriginal and Torres Strait Islander People

Recommendation 47: Aboriginal and Torres Strait Islander aged care pathway within the new aged care system

The Australian Government should ensure that the new aged care system makes specific and adequate provision for the diverse and changing needs of Aboriginal and Torres Strait Islander people and that:

- a. Aboriginal and Torres Strait Islander people receive culturally respectful and safe, high quality, trauma-informed, needs-based and flexible aged care services regardless of where they live

- b. priority is given to existing and new Aboriginal and Torres Strait Islander organisations, including health, disability and social service providers, to cooperate and become providers of integrated aged care services
- c. regional service delivery models that promote integrated care are deployed wherever possible
- d. there is a focus on providing services within, or close to, Aboriginal and Torres Strait Islander populations while maximising opportunities for people to remain on, and maintain connection with, their Country and communities
- e. aged care is available and providers are engaged at the local aged care planning region level on the basis of objectively established need that is determined in consultation with Aboriginal and Torres Strait Islander populations and communities, and recognising that aged care needs and service delivery preferences may vary between locations and population centres
- f. older Aboriginal and Torres Strait Islander people are given access to interpreters on at least the same basis as members of culturally and linguistically diverse communities when seeking or obtaining aged care, including health care services.

Recommendation 48: Cultural safety

1. By 1 July 2022, the Australian Government and the System Governor should:
 - a. require all of its employees who are involved in the aged care system, and any care finders who are not its employees, to undertake regular training about cultural safety and trauma-informed service delivery
 - b. require all aged care providers which promote their services to Aboriginal and Torres Strait Islander people to:
 - i. train their staff in culturally safe and trauma-informed care, and
 - ii. demonstrate to the System Governor that they have reached an advanced stage of implementation of the Aboriginal and Torres Strait Islander Action Plan under the Diversity Framework.
2. From 1 July 2023, the System Governor should:
 - a. ensure care finders serving Aboriginal and Torres Strait Islander communities are local Aboriginal and Torres Strait Islander people who are culturally trained and familiar with existing Aboriginal and Torres Strait Islander service providers who are trusted by the local population

- b. ensure, wherever possible, that aged care assessments of Aboriginal and Torres Strait Islander people are conducted by assessors who are Aboriginal or Torres Strait Islander people, or others who have undertaken training in cultural safety and trauma-informed approaches
 - c. work with State and Territory Governments to establish culturally appropriate advance care directive processes, guidance material and training for aged care providers that account for the diversity of cultural practices and traditions within each State and Territory.
3. From 1 July 2023, the System Governor should require its employees, and any care finders who are not its employees, to undertake regular training about cultural safety and trauma-informed service delivery.

Recommendation 49: An Aboriginal and Torres Strait Islander Aged Care Commissioner

1. By 1 July 2023, there should be within the System Governor a statutory role that involves the ongoing fostering, promotion and development of culturally safe, tailored and flexible aged care services for Aboriginal and Torres Strait Islander people across the country. The person appointed to this role shall be an Aboriginal or Torres Strait Islander person.
2. A person should be appointed by 31 December 2021 under interim administrative arrangements to perform relevant functions and exercise relevant powers.

Recommendation 50: Prioritising Aboriginal and Torres Strait Islander organisations as aged care providers

1. The Australian Government should assist Aboriginal and Torres Strait Islander organisations to expand into aged care service delivery, whether on their own or in partnership with other organisations, including with Aboriginal Community Controlled Organisations and existing Aboriginal and Torres Strait Islander providers.
2. The Australian Government and the System Governor should encourage and support additional Aboriginal and Torres Strait Islander aged care providers by flexible approval and regulation of them to ensure:
 - a. existing Aboriginal and Torres Strait providers are not disadvantaged and should continue to provide high quality and safe aged care while being assisted to meet the new provider requirements

- b. other organisations that wish to move into aged care to enhance services to Aboriginal and Torres Strait Islander people across Australia are given special consideration.
3. Flexibility in approval and regulation should extend to such matters as: additional time to meet new requirements; alternative means of demonstrating the necessary capability or requirement; and, in some very limited cases, exemptions. Assistance should include financial assistance for capacity-building.

Recommendation 51: Employment and training for Aboriginal and Torres Strait Islander aged care

1. By 1 December 2022, the Australian Government should:
 - a. develop a comprehensive national Aboriginal and Torres Strait Islander Aged Care Workforce Plan in consultation with the National Advisory Group for Aboriginal and Torres Strait Islander Aged Care, including:
 - i. the refinement of existing Aboriginal and Torres Strait Islander training and employment programs
 - ii. targets for the training and employment of Aboriginal and Torres Strait Islander people across the full range of aged care roles
 - b. provide the funds necessary to implement the Plan and meet the training and employment targets
 - c. work with the State and Territory Governments to implement the Plan, which should include making available vocational educational training facilities, teachers and courses available in urban, rural, regional and remote Australia.
2. In the interim, the Australian Government should ensure, in consultation with the National Advisory Group for Aboriginal and Torres Strait Islander Aged Care, that the existing employment programs and initiatives for Aboriginal and Torres Strait Islanders are aligned to the needs of the aged care sector.

Recommendation 52: Funding cycle

1. The Australian Government should block fund providers under the Aboriginal and Torres Strait Islander aged care pathway (see Recommendation 47) on a three-to seven-year rolling assessment basis.
2. The Pricing Authority should:
 - a. set the funding of the Aboriginal and Torres Strait Islander aged care pathway following advice from the Aboriginal and Torres Strait Islander Commissioner, and
 - b. annually assess and adjust the block funding on the basis of the actual costs incurred while providing culturally safe and high quality aged care services to Aboriginal and Torres Strait Islander people in the preceding year.

Recommendation 53: Program streams

1. Under the Aboriginal and Torres Strait Islander aged care pathway, the Australian Government and the System Governor should:
 - a. provide flexible grant funding streams that are able to be pooled for:
 - i. home and community care
 - ii. residential and respite care, including transition
 - b. establish funding streams under the Aboriginal and Torres Strait Islander aged care pathway that allow Aboriginal and Torres Strait Islander aged care pathway providers to apply for funding for:
 - i. capital development and expenditure
 - ii. provider development
 - c. make funds available, on application, for any residential aged care provider that has Aboriginal and Torres Strait Islander residents who require assistance to retain connection to their Country, including meeting the costs of:
 - i. travel to and from Country, as well as the costs of any people needed to provide clinical or other assistance to the resident to make the trip
 - ii. a family member travelling to and from the older person at a distant residential facility
 - iii. establishing, maintaining and using infrastructure that facilitates connection between the residential facility and communities on Country, such as videoconferencing technology.

Chapter 8: Aged Care in Regional, Rural and Remote Areas

Recommendation 54: Ensuring the provision of aged care in regional, rural and remote areas

The System Governor should ensure that older people in regional, rural and remote locations are able to access aged care in their community equitably with other Australians by:

- a. identifying areas where service supply is inadequate, and
- b. actively responding by planning for, and supplementing services to meet entitlements and needs.

Recommendation 55: The Multi-Purpose Services Program

From 1 December 2021, the Australian Government, working together with State and Territory Governments, should maintain and extend the Multi-Purpose Services Program by:

- a. establishing new Multi-Purpose Services in accordance with community need as identified by the System Governor, including:
 - i. in areas where there is an existing aged care provider, if the System Governor advises that the demographic and market profile justify increased access to aged care services
 - ii. in areas where there is not an existing acute health service, but governments agree that a combined aged care and health service would address local needs
- b. ensuring that people entering Multi-Purpose Services are subject to the same eligibility and needs assessments as all other people receiving aged care
- c. requiring people accessing Multi-Purpose Services to make contributions to the cost of their care and accommodation on the same basis as all other people receiving aged care (with appropriate protections for people currently accessing Multi-Purpose Services)
- d. permitting Multi-Purpose Service providers to access all aged care funding programs on the same basis as other aged care providers

- e. developing a funding model for Multi-Purpose Services which reflects the changing number and acuity of people receiving care over time while maintaining certainty of funding over the course of a financial year
- f. establishing a cost-shared capital grants program to rebuild or refurbish older Multi-Purpose Services to ensure that the infrastructure meets contemporary aged care design standards, particularly to support the care of people living with dementia.

Chapter 9: Better Access to Health Care

Recommendation 56: A new primary care model to improve access

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| <p>1. Commencing by no later than 1 January 2024, the Australian Government should trial for six to ten years a new voluntary primary care model for people receiving aged care.</p> | <p>Commissioner Pagone</p> |
| <p>2. Commencing by no later than 1 January 2024, the Australian Government should implement a new voluntary primary care model for people receiving aged care.</p> | <p>Commissioner Briggs</p> |
| <p>3. The new primary care model would have the following characteristics:</p> <ul style="list-style-type: none"> a. general practices may, if they choose, apply to the Australian Government to become accredited aged care general practices b. the initial accreditation criteria would be: <ul style="list-style-type: none"> i. accreditation with the Royal Australian College of General Practitioners ii. participation in after-hours cooperative arrangements, and iii. use of My Health Record c. over time, as aged care general practices mature, the accreditation requirements could be strengthened d. each accredited aged care general practice would enrol people receiving residential care or personal care at home who choose to be enrolled with that practice e. each accredited aged care general practice would receive an annual capitation payment for every enrolled person, based on the person's level of assessed need | |

- f. an accredited aged care general practice would agree with each enrolled person and the person's aged care provider on how care will be provided, including by any use of telehealth services and nurse practitioners
 - g. the accredited aged care general practice would be required to:
 - i. meet the primary health care needs of each enrolled older person (including through any cooperative arrangements with other general practices to provide after-hours care if required)
 - ii. use My Health Record in conjunction with aged care providers
 - iii. initiate and take part in regular medication management reviews
 - iv. prepare an 'Aged Care Plan' (in collaboration with a geriatrician and the aged care provider and others) for each enrolled person
 - v. accept any person who wishes to enrol with it (subject to geography) to avoid practices accepting only patients with less complex care needs, and
 - vi. report on performance against a range of performance indicators, including immunisation rates and prescribing rates
 - h. the capitation payment would be reduced by the value of benefits paid when an enrolled person sees a general practitioner in another practice.
4. The Australian Government should undertake a thorough evaluation of the new primary care model, including any trial, in 2030 and make appropriate adjustments to the model at that time.

Recommendation 57: Royal Australian College of General Practitioners accreditation requirements

By 31 December 2021, the Royal Australian College of General Practitioners should amend its *Standards for general practices* to allow for accreditation of general practices which practise exclusively in providing primary health care to people receiving aged care in residential aged care facilities and in their own homes.

Recommendation 58: Access to specialists and other health practitioners through Multidisciplinary Outreach Services

1. By 1 January 2022, the Australian and State and Territory Governments should introduce Local Hospital Network-led multidisciplinary outreach services.
2. These services should be funded through amendment of the National Health Reform Agreement, and all people receiving residential care or personal care at home should have access based on clinical need.
3. The amended National Health Reform Agreement should include a recurrent and sustainable funding mechanism to stimulate outreach services. The level of funding should be based on underlying costs as determined by the Independent Hospital Pricing Authority.
4. The key features of the model should include:
 - a. provision of services in a person's place of residence wherever possible
 - b. multidisciplinary teams, including nurse practitioners, allied health practitioners and pharmacists
 - c. access to a core group of relevant specialists, including geriatricians, psychogeriatricians and palliative care specialists
 - d. embedded escalation to other specialists (including endocrinologists, cardiologists, infectious disease specialists and wound specialists), who are already salaried within the hospital and assigned to the model for part of their work
 - e. 24 hour a day on-call services available to:
 - i. people receiving residential care or personal care at home
 - ii. the families of those people receiving aged care, and
 - iii. staff of aged care services
 - f. proactive care and rehabilitation
 - g. a focus, where feasible, on skills transfer to staff working in aged care
 - h. a specific focus on palliative care outreach services
 - i. clinical governance arrangements involving Local Hospital Networks and relevant aged care and primary care providers.

Recommendation 59: Increased access to Older Persons Mental Health Services

By 1 January 2022, the Australian and State and Territory Governments should:

- a. fund separately, under the National Health Reform Agreement, outreach services delivered by State and Territory Government Older Persons Mental Health Services to people receiving residential aged care or personal care at home
- b. introduce performance measures and benchmarks for these outreach services
- c. promulgate standardised service eligibility criteria for hospital, community-based, and aged care Older Persons Mental Health Services that do not exclude people living with dementia from eligibility for such services.

Recommendation 60: Establish a Senior Dental Benefits Scheme

The Australian Government should establish a new Senior Dental Benefits Scheme, commencing no later than 1 January 2023, which will:

- a. fund dental services to people who:
 - i. live in residential aged care, or
 - ii. live in the community and receive the age pension or qualify for the Commonwealth Seniors Health Card
- b. include benefits set at a level that minimises gap payments, and includes additional subsidies for outreach services provided to people who are unable to travel, with weightings for travel in remote areas
- c. provide benefits for services limited to treatment required to maintain a functional dentition (as defined by the World Health Organization) with a minimum of 20 teeth, and to maintain and replace dentures.

Recommendation 61: Short-term changes to the Medicare Benefits Schedule to improve access to medical and allied health services

The Australian Government should:

- a. create specific Medicare Benefits Schedule items by 1 November 2021 to allow for a benefit to be paid for a comprehensive health assessment, whether conducted by a general practitioner or a nurse practitioner, when a person receiving aged care begins to receive residential aged care or personal care at home and at six month intervals thereafter, or more frequently if there is a material change in a person's circumstances or health
- b. immediately amend the Medicare Benefits Schedule to allow benefits to be paid under the GP Mental Health Treatment items 2700 to 2717 to patients receiving these services at a residential aged care facility
- c. create specific Medicare Benefits Schedule items by 1 November 2021 for:
 - i. a mental health assessment, and subsequent development of a treatment plan, by a general practitioner or psychiatrist, within two months of a person's entry into residential aged care
 - ii. three-monthly reassessments or reviews of a mental health assessment by a general practitioner, psychiatrist, or psychologist
- d. create new Medicare Benefits Schedule items by 1 November 2021, with the value of the benefit aligned with recommended professional fees, for allied mental health practitioners (including psychologists, occupational therapists and social workers) providing services to people in residential aged care and:
 - i. the number of services for which a benefit is payable should be based on clinical advice
 - ii. these benefits should cease on 30 June 2024, when the aged care allied health funding arrangement is established
- e. amend the General Practitioner Aged Care Access Incentive payment to:
 - i. increase the minimum annual number of services required by general practitioners to qualify for the payment and the amount of the corresponding payment
 - ii. introduce incremental increases to the amount of the payment for general practitioners who deliver more than the minimum annual number of services

and index these amounts on the same basis as Medicare Benefits Schedule general practitioner attendance items.

Recommendation 62: Enhance the Rural Health Outreach Fund to improve access to medical specialists for people receiving aged care

The Australian Government should:

- a. amend the priorities of the Rural Health Outreach Fund by 1 July 2021 to include delivery of:
 - i. geriatrician services in regional, rural and remote Australia, and
 - ii. medical specialist services to people receiving aged care in regional, rural and remote Australia
- b. increase, for these additional priorities, the annual funds available by \$9.6 million, starting in the 2021–22 financial year, and
- c. ensure that these additional priorities of the Fund are maintained on an ongoing basis.

Recommendation 63: Access to specialist telehealth services

By 1 November 2021, the Australian Government should:

- a. expand access to Medicare Benefits Schedule-funded specialist telehealth services to older people receiving personal care at home
- b. require aged care providers delivering residential care or personal care at home to have the necessary equipment and clinically and culturally capable staff to support telehealth services.

Recommendation 64: Increased access to medication management reviews

The Australian Government should immediately improve access to quality medication management reviews for people receiving aged care by:

- a. allowing and funding pharmacists from 1 January 2022 to conduct reviews on entry to residential care and annually thereafter, or more often if there has been a significant change to the person receiving care's condition or medication regimen
- b. amending the criteria for eligibility for residential medication management reviews to include people in residential respite care and transition care
- c. monitoring quality and consistency of medication management reviews.

Recommendation 65: Restricted prescription of antipsychotics in residential aged care

By 1 November 2021, the Australian Government should amend the Pharmaceutical Benefits Scheme Schedule so that:

- a. only a psychiatrist or a geriatrician can initially prescribe antipsychotics as a pharmaceutical benefit for people receiving residential aged care, and
- b. for those people who have received such an initial prescription from a psychiatrist or a geriatrician, general practitioners can issue repeat prescriptions of antipsychotics as a pharmaceutical benefit for up to a year after the date of the initial prescription.

Recommendation 66: Improving the transition between residential aged care and hospital care

The Australian and State and Territory Governments should:

- a. by 1 July 2022, implement, and commence publicly reporting on compliance with, hospital discharge protocols that ensure that discharge to residential aged care from hospital should only occur once appropriate clinical handover and discharge summary (including medications list) has been provided to and acknowledged by the residential care service, and provided to the person being discharged
- b. by 1 December 2021, require staff of aged care services, when calling an ambulance for a resident, to provide the paramedics on arrival with an up-to-date summary of the resident's health status, including medications and advance care directives.

Recommendation 67: Improving data on the interaction between the health and aged care systems

The Australian Government and State and Territory Governments should improve the data available to monitor the interaction between the health and aged care systems and improve health and aged care planning and funding decisions.

In particular:

- a. the Australian Government should implement an aged care identifier by no later than 1 July 2022 in the Medicare Benefits Schedule and Pharmaceutical Benefits Scheme Schedule datasets to allow regular public reporting on the number and type of medical and pharmaceutical services provided to people receiving aged care

- b. by no later than 1 July 2023, all health National Minimum Data Sets reported to the Australian Institute of Health and Welfare (other than those relating to maternity, neonatal and paediatric care) should include an item identifying whether a person is receiving aged care services and the type of aged care the person is receiving
- c. National Minimum Data Sets covering all State and Territory Government-funded health services should be implemented by no later than 1 July 2023
- d. all governments should implement a legislative framework by no later than 1 July 2023 for health and aged care data to be directly linked, shared and analysed to understand the burden of disease of current and prospective people receiving aged care and their current and future health needs
- e. the Australian Government should direct the Australian Institute of Health and Welfare to include data tabulated on the basis of aged care recipient status in any relevant health statistical publications, and make the de-identified data publicly available through the Australian Government's data portal data.gov.au.

Recommendation 68: Universal adoption by the aged care sector of digital technology and My Health Record

The Australian Government should require that, by 1 July 2022:

- a. every approved provider of aged care delivering personal care or clinical care:
 - i. uses a digital care management system (including an electronic medication management system) meeting a standard set by the Australian Digital Health Agency and interoperable with My Health Record
 - ii. invites each person receiving aged care from the provider to consent to their care records being made accessible on My Health Record
 - iii. if the person consents, places that person's care records (including, at a minimum, the categories of information required to be communicated upon a clinical handover) on My Health Record and keeps them up to date
- b. the Australian Digital Health Agency immediately prioritises support for aged care providers to adopt My Health Record.

Recommendation 69: Clarification of roles and responsibilities for delivery of health care to people receiving aged care

1. By 31 December 2021, the Australian and State and Territory Governments should amend the National Health Reform Agreement to include an explicit statement of the respective roles and responsibilities of approved aged care providers and State and Territory health care providers to deliver health care to people receiving aged care, similar to the Applied Principles and ‘tables of supports’ for the National Disability Insurance Scheme, on the basis that, among other things:
 - a. allied health care should generally be provided by aged care providers
 - b. specialist services, including specialist palliative care and subacute rehabilitation, should be provided by State and Territory health care providers, even if these services involve allied health practitioners
 - c. less complex health conditions should be managed by aged care providers’ staff, particularly nurses.
2. By 31 December 2021, the Australian Government should amend the *Quality of Care Principles 2014* (Cth) to clarify the role and responsibilities of approved providers to deliver health care to people receiving aged care, including but not limited to their particular role and responsibilities to deliver allied health care, mental health care, and oral and dental health care.

Recommendation 70: Improved access to State and Territory health services by people receiving aged care

By 1 July 2022, the Australian and State and Territory Governments should amend the National Health Reform Agreement or any future health funding agreement to include explicit commitments by State and Territory Governments to provide:

- a. access by people receiving aged care to State and Territory Government-funded health services, including palliative care services, on the basis of the same eligibility criteria that apply to residents of the relevant State and Territory more generally
- b. clinically appropriate subacute rehabilitation for patients who:
 - i. are receiving residential aged care or personal aged care at home, or
 - ii. may need such aged care services if they do not receive rehabilitation,as well as performance targets and reporting requirements on the provision of subacute rehabilitation care to people receiving aged care.

Recommendation 71: Ongoing consideration by the Health National Cabinet Reform Committee

The Health National Cabinet Reform Committee should require the Australian Health Ministers' Advisory Council to:

- a. consider the full suite of the Royal Commission's recommendations related to the interface of the health care and aged care systems and report to the next meeting of the Committee
- b. include a standing item in all future meetings of the Council on the aged care system and its interface with the health care system.

Chapter 10: Aged Care for Older People with Disability

Recommendation 72: Equity for people with disability receiving aged care

By 1 July 2024, every person receiving aged care who is living with disability, regardless of when acquired, should receive through the aged care program daily living supports and outcomes (including assistive technologies, aids and equipment) equivalent to those that would be available under the National Disability Insurance Scheme to a person under the age of 65 years with the same or substantially similar conditions.

Recommendation 73: Annual reporting to Parliament by the Disability Discrimination Commissioner and the Age Discrimination Commissioner

By 1 July 2024, the Disability Discrimination Commissioner and the Age Discrimination Commissioner should be required, as part of the new National Disability Strategy, to report annually to the Parliament on the number of people receiving aged care with disability who are aged 65 years or older and their ability to access daily living supports and outcomes (including assistive technologies, aids and equipment) equivalent to those available under the National Disability Insurance Scheme.

Chapter 11: Younger People in Residential Aged Care

Recommendation 74: No younger people in residential aged care

The Australian Government should immediately put in place the means to achieve, and to monitor and report on progress towards, the commitments announced by the Australian Prime Minister on 25 November 2019 to ensure that:

- a. no person under the age of 65 years enters residential aged care from 1 January 2022
- b. no person under the age of 45 years lives in residential aged care from 1 January 2022
- c. no person under the age of 65 years lives in residential aged care from 1 January 2025

by:

- d. referring for assessment by the agency most appropriate for the assessment of the person concerned, such as the National Disability Insurance Agency, and not an Aged Care Assessment Team or Aged Care Assessment Service, any younger person who is at risk of entering residential aged care
- e. developing hospital discharge protocols with State and Territory Governments to prevent discharge into residential aged care of any younger person
- f. developing, funding and implementing with State and Territory Governments programs for short-term and long-term accommodation and care options for any younger person who is:
 - i. living in or at risk of entering residential aged care and
 - ii. not eligible to be a participant in the National Disability Insurance Scheme
- g. requiring the National Disability Insurance Agency to publish an annual Specialist Disability Accommodation National Plan setting out, among other things, priority locations and proposed responses to thin or underdeveloped markets

- h. providing directly for, where appropriate and necessary, accommodation in the Specialist Disability Accommodation market, particularly in thin or underdeveloped markets
- i. funding dedicated and individualised advocacy services for younger people who are living in, or at risk of entering, residential aged care
- j. collecting data on an ongoing basis, and publishing up-to-date collected data each quarter, on, for each State and Territory, the number of younger people living in residential aged care and, among other things:
 - i. their age ranges
 - ii. the average length of time in residential aged care
 - iii. the numbers of admissions into and discharges from residential aged care, and
 - iv. the reasons for younger people exiting from residential aged care, such as death, turning 65 years or moving into the community
- k. having the responsible Minister report to the Parliament every six months about progress towards achieving the announced commitments, and
- l. ensuring that a younger person will only ever live in residential aged care if it is in the demonstrable best interests of the particular person (and is independently certified to be such by someone with suitable skills, experience, training and knowledge of the person) in limited and exceptional circumstances such as, for instance, where:
 - i. the person will turn 65 years within a short period of time, being no more than three months, after entering into residential aged care
 - ii. the person's close relatives over 65 years live in a residential aged care facility and the person would suffer serious hardship on being separated from those relatives
 - iii. an Aboriginal or Torres Strait Islander person between the age of 50 and 64 years elects to live in residential aged care.

Chapter 12: The Aged Care Workforce

Recommendation 75: Aged care workforce planning

1. The Australian Government should establish an Aged Care Workforce Planning Division within the Australian Department of Health by 1 January 2022. If an Australian Aged Care Commission is established, the Aged Care Workforce Planning Division should be transferred into that Commission upon its establishment. The Division should be responsible for developing workforce strategies for the aged care sector through:
 - a. obtaining up to date data about the aged care workforce with a census that Commissioner Briggs recommends takes place every 2 years
 - b. long-term workforce modelling on the supply of and demand for health professionals, including allied health professionals, and care workers
 - c. consultation with the providers of education and training for health professionals and personal care workers, in partnership with the State and Territory Governments, universities, registered training organisations, National Boards, professional associations, and colleges
 - d. ensuring an appropriate distribution of health professionals and care workers to meet the needs of the aged care sector, particularly in regional, rural and remote Australia
 - e. aged care workforce planning, including through modelling, consultation with providers and consideration of immigration.
2. By 1 July 2022, the Aged Care Workforce Planning Division should prepare an interim workforce strategy and planning framework for 2022–25.
3. By 1 July 2025, the Aged Care Workforce Planning Division within the System Governor should prepare a 10-year workforce strategy and planning framework for 2025–35, following the interim 3-year Workforce Strategy.
4. The Aged Care Workforce Planning Division should be supported by an Aged Care Workforce Fund, which Commissioner Briggs recommends should be \$100 million per year in line with previous arrangements, that can be used to support training, clinical placements, scholarships and other initiatives to respond in a targeted manner to the workforce challenges that the Division identifies.

Recommendation 76: Aged Care Workforce Industry Council Limited

1. By 1 July 2021, the Aged Care Workforce Industry Council Limited should:
 - a. invite the Australian Government to become a member
 - b. review membership of the Council to ensure it is comprised of individuals, including worker representatives, who represent the breadth and diversity of the aged care workforce with an appropriate mix of skills and experience to lead and drive change across the sector.
2. By 30 June 2022, the Aged Care Workforce Industry Council Limited should:

**Commissioner
Briggs**

 - a. review the qualifications and skills framework to address current and future competency and skill requirements and to create longer-term career paths for aged care workers, in conjunction with the work to be undertaken to seek review of award rates in aged care
 - b. review all aged care occupational groups, jobs and job grades to ensure they reflect the skills, capabilities, knowledge and competencies as well as the structure required in the new aged care system
 - c. revise the competency and accreditation requirements for all job grades in the aged care sector to ensure education and training builds the required skills and knowledge
 - d. standardise job titles, job designs, job grades and job definitions for the aged care sector, and
 - e. lead the Australian Government and the aged care sector to a consensus to support applications to the Fair Work Commission to improve wages based on work value and/or equal remuneration, which may include redefining job classifications and job grades in the relevant awards.
3. The Aged Care Workforce Council Limited should work collaboratively with the Aged Care Workforce Planning Division so that its work complements aged care workforce design and planning.
4. From 1 July 2022, the Aged Care Workforce Industry Council Limited should map career pathways for the aged care sector. These career pathways should:
 - a. highlight opportunities for nurses to advance in clinical and managerial roles in the aged care sector
 - b. facilitate personal care workers having opportunities to move laterally across aged care, disability care, community care and primary health care and vertically in aged care by advancing into nursing, specialist care roles and supervisory or managerial roles
 - c. develop and document career opportunities in the aged care sector for non-direct care workers, including kitchen hands, cooks, cleaners, gardeners, drivers, security and people performing administrative roles.

5. By 1 July 2022, the Aged Care Workforce Industry Council Limited should lead a national multimedia campaign aimed at raising awareness of career paths and opportunities in aged care.
6. The Australian Government should provide the necessary funding and resources to enable the Aged Care Workforce Industry Council Limited to implement the workforce recommendations of this Royal Commission and to build on its work implementing the Aged Care Workforce Strategy Taskforce's strategic actions.

Recommendation 77: National registration scheme

1. By 1 July 2022, the Australian Government should establish a national registration scheme for the personal care workforce with the following key features:
 - a. a mandatory minimum qualification of a Certificate III
 - b. ongoing training requirements
 - c. minimum levels of English language proficiency
 - d. criminal history screening requirements
 - e. a code of conduct and power for a registering body to investigate complaints into breaches of the Code of Conduct and take appropriate disciplinary action.
2. For existing personal care workers who do not meet the minimum qualification requirements, there should be transitional arrangements that allow them to apply for registration based on their experience and prior learning.
3. By 1 July 2021, the Australian Health Practitioner Regulation Agency should start a process to examine the feasibility of a registration scheme under the National Registration and Accreditation Scheme for the occupation of 'personal care worker (health)' or 'assistant in nursing', to inform the National Cabinet Health Council deliberations in Recommendation 77.4.

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4. By 1 July 2023, the Australian Government should request that the National Cabinet Health Council determine whether to regulate the occupation of 'personal care worker (health)' or 'assistant in nursing' under the National Registration and Accreditation Scheme, established and governed under the Health Practitioner Regulation National Law.

Recommendation 78: Mandatory minimum qualification for personal care workers

1. A Certificate III should be the mandatory minimum qualification required for personal care workers performing paid work in aged care.
2. If a Personal Care Worker National Board is established, it should establish an accreditation authority to:
 - a. develop and review accreditation standards for the mandatory minimum qualification
 - b. assess programs of study and education providers against the standards, and
 - c. provide advice to the National Board on accreditation functions.
3. The National Board should approve the accredited program of study, and review the need for personal care workers in home care to have specialised skills or competencies.

**Commissioner
Briggs**

Recommendation 79: Review of certificate-based courses for aged care

1. By January 2022, the Aged Care Services Industry Reference Committee, working with the Australian Government Human Services Skills Organisation as required, should:
 - a. review the need for specialist aged care Certificate III and IV courses, and
 - b. regularly review the content of the Certificate III and IV courses and consider if any additional units of competency should be included.
2. As part of any such review, the Aged Services Industry Reference Committee, working with the Australian Government Human Services Skills Organisation as required, should consider if any of the following additional units of competency should be included as core competencies:
 - a. personal care modules, including trauma-informed care, cultural safety, mental health, physical health status, wound care, oral health, palliative care, falls prevention, first aid, monitoring medication and dysphagia management
 - b. quality of life and wellbeing, including the use of technology, interventions for older people at risk, and recognising and responding to crisis situations.

**Commissioner
Briggs**

Recommendation 80: Dementia and palliative care training for workers

By 1 July 2022, the Australian Government should implement as a condition of approval of aged care providers, that all workers engaged by providers who are involved in direct contact with people seeking or receiving services in the aged care system undertake regular training about dementia care and palliative care.

Recommendation 81: Ongoing professional development of the aged care workforce

From 1 July 2021, the Australian Government and the States and Territories, through the Skills National Cabinet Reform Committee, should fast-track the development by the Australian Industry and Skills Committee of accredited, nationally recognised short courses, skills sets and micro-credentials for the aged care workforce. The courses should be designed to:

- a. improve opportunities for learning and professional development, and
- b. upgrade the skills, knowledge and capabilities of the existing workforce.

Recommendation 82: Review of health professions' undergraduate curricula

In conducting their regular scheduled reviews of accreditation standards, the relevant accreditation authorities should consider any changes to the knowledge, skills and professional attributes of health professionals so that the care needs of older people are met.

Recommendation 83: Funding for teaching aged care programs

By 1 July 2023, the Australian Government should fund teaching aged care programs for delivery to students in both residential aged care and home care settings. The teaching aged care programs should have designated catchment areas and should:

- a. collaborate with educational institutions and research entities
- b. facilitate clinical placements for university and vocational education and training sector students

- c. act as a centre of research and training for aged care in a catchment area
- d. act as a hub for approved providers in a particular region and support training of aged care workers from surrounding aged care services.

Recommendation 84: Increases in award wages

Employee organisations entitled to represent the industrial interests of aged care employees covered by the *Aged Care Award 2010*, the *Social, Community, Home Care and Disability Services Industry Award 2010* and the *Nurses Award 2010* should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to:

- a. reflect the work value of aged care employees in accordance with section 158 of the *Fair Work Act 2009 (Cth)*, and/or
- b. seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the *Fair Work Act 2009 (Cth)*.

Recommendation 85: Improved remuneration for aged care workers

In setting prices for aged care, the Pricing Authority should take into account the need to deliver high quality and safe care, and the need to attract sufficient staff with the appropriate skills to the sector, noting that relative remuneration levels are an important driver of employment choice.

Recommendation 86: Minimum staff time standard for residential care

1. The Australian Government should require approved providers of residential aged care facilities to meet a minimum staff time quality and safety standard. This requirement should take the form of a quality and safety standard for residential aged care. The minimum staff time standard should allow approved providers to select the appropriate skills mix for delivering high quality care in accordance with their model of care.
2. From 1 July 2022, the minimum staff time standard should require approved providers to engage registered nurses, enrolled nurses, and personal care workers for at least 200 minutes per resident per day for the average resident, with at least 40 minutes of that staff time provided by a registered nurse.

3. In addition, from 1 July 2022, the minimum staff time standard should require at least one registered nurse on site per residential aged care facility for the morning and afternoon shifts (16 hours per day).
4. From 1 July 2024, the minimum staff time standard should increase to require approved providers to engage registered nurses, enrolled nurses, and personal care workers for the average resident for at least 215 minutes per resident per day for the average resident, with at least 44 minutes of that staff time provided by a registered nurse.
5. In addition, from 1 July 2024, the minimum staff time standard should require at least one registered nurse on site per residential aged care facility at all times.
6. The minimum staff time standard should be linked to the casemix-adjusted activity based funding model for residential aged care facilities. This means that approved providers with a higher than average proportion of high needs residents would be required to engage additional staff, and vice versa.
7. Approved providers should be able to apply to the System Governor for an exemption from the quality and safety standard relating to staff skills mix, but not the standard relating to numbers of staff. Any exemption should be granted for a limited time, and details of the exemption should be published on My Aged Care. The grounds for granting an exemption should include:
 - a. specific purpose residential aged care facilities, such as specialist homeless facilities, where the profile of the residents is such that it may be appropriate to substitute a registered nurse with another qualified health professional
 - b. residential aged care facilities that are co-located with a health service, such as Multi-Purpose Services, where registered and enrolled nurses are present at the co-located health service
 - c. regional, rural and remote residential aged care facilities, where the approved provider can demonstrate it has been unable to recruit sufficient numbers of staff with the requisite skills, and
 - d. residential aged care facilities where an alternative skills mix is being trialled and it would be appropriate to substitute a registered nurse with another qualified health professional. There should be a requirement for any such trial to be comprehensively evaluated and publicly reported.
8. The Australian Commission on Safety and Quality in Health and Aged Care should review and update this standard as appropriate. At a minimum, this should occur in line with significant revisions of the casemix classification for residential aged care facilities, or at least every five years.

Recommendation 87: Employment status and related labour standards as enforceable standards

**Commissioner
Briggs**

1. By 1 January 2022, the Australian Government should require as an ongoing condition of holding an approval to provide aged care services that
 - a. approved providers: have policies and procedures that preference the direct employment of workers engaged to provide personal care and nursing services on their behalf
 - b. where personal care or nursing work is contracted to another entity, that entity has policies and procedures that preference direct employment of workers for work performed under that contract.
2. From 1 January 2022, quality reviews conducted by the Quality Regulator must include assessing compliance with those policies and procedures and record the extent of use of independent contractors.

Chapter 13: Provider Governance

Recommendation 88: Legislative amendments to improve provider governance

1. By 1 January 2022, the *Aged Care Act 1997* (Cth) and the *Aged Care Quality and Safety Commission Act 2018* (Cth) should be amended to require that:
 - a. the governing body of an approved provider providing personal care services must have a majority of independent non-executive members (unless the provider has applied to the Aged Care Quality and Safety Commissioner for an exemption and the exemption has been granted)
 - b. the constitution of an approved provider must not authorise a member of the governing body to act other than in the best interests of the provider
 - c. an applicant for approval to provide aged care services must notify the Aged Care Quality and Safety Commissioner of its key personnel, and an approved provider must notify the Commissioner of any change to key personnel within 10 business days of the change
 - d. a 'fit and proper person' test (as set out in the text below) apply to key personnel in place of the 'disqualified individual' test
 - e. an approved provider must provide an annual report to the Secretary of the Australian Department of Health containing information (as set out in the text below) to be made publicly available through My Aged Care.

2. By 1 January 2022, the *Freedom of Information Act 1982* (Cth) should be amended to remove from Schedule 3 to that Act references to provisions in the *Aged Care Act 1997* (Cth) and the *Aged Care Quality and Safety Commission Act 2018* (Cth), thereby ensuring that the exemption in section 38 of the *Freedom of Information Act 1982* (Cth) does not apply to ‘protected information’ under aged care legislation merely on the grounds that it is information that relates to the affairs of:
 - a. an approved provider
 - b. an applicant for a grant under Chapter 5 of the *Aged Care Act 1997* (Cth)
 - c. a service provider of a Australian Government-funded aged care service, or
 - d. an applicant for approval under section 63B of the *Aged Care Quality and Safety Commission Act 2018* (Cth).

Recommendation 89: Leadership responsibilities and accountabilities

Commissioner
Briggs

By 1 July 2021, the Aged Care Quality and Safety Commission (and any successor body) should, as part of its approval of aged care providers and accreditation of aged care services, require governing bodies to:

- a. ensure that their leaders and managers have professional qualifications or high-level experience in management roles
- b. ensure that employment arrangements for the executive and other senior managers include performance appraisal against the demonstration of leadership, team development and support for organisational culture and practice consistent with the new Act, and
- c. adopt and implement a plan to manage and support staff training, professional development and continuous learning, staff feedback and engagement, and team building.

Recommendation 90: New governance standard

Any governance standard for aged care providers developed by the Australian Commission on Safety and Quality in Health and Aged Care should require every approved provider to:

- a. have members of the governing body who possess between them the mix of skills, experience and knowledge of governance responsibilities, including care governance, required to provide governance over the structures, systems and processes for ensuring the safety and high quality of the care delivered by the provider
- b. have a care governance committee, chaired by a non-executive member with appropriate experience in care provision, to monitor and ensure accountability for the quality of care provided, including clinical care, personal care and services, and supports for daily living
- c. allocate resources and implement mechanisms to support regular feedback from, and engagement with, people receiving aged care, their representatives, and staff to obtain their views on the quality and safety of the services that are delivered and the way in which they are delivered or could be improved
- d. have a system for receiving and dealing with complaints, including regular reports to the governing body about complaints, and containing, among other things, an analysis of the patterns of, and underlying reasons for, complaints
- e. have effective risk management practices covering care risks as well as financial and other enterprise risks, and give particular consideration to ensuring continuity of care in the event of default by contractors or subcontractors
- f. have a nominated member of the governing body:
 - i. attest annually on behalf of the members of the governing body that they have satisfied themselves that the provider has in place the structures, systems and processes to deliver safe and high quality care, and
 - ii. if such an attestation cannot be given, explain the inability to do so and how it will be remedied.

Recommendation 91: Program of assistance to improve governance arrangements

The Australian Government should establish an ongoing program, commencing in the 2021–22 financial year, to provide assistance to approved providers to improve their governance arrangements, including their care governance arrangements.

Chapter 14: Quality Regulation and Advocacy

Recommendation 92: Approval of providers

1. The new Act should provide for the commencement by 1 July 2024 of new approval requirements for all aged care providers to ensure their suitability, viability and capability to deliver the kinds of services for which they receive subsidies.
2. Applicants for approval as a provider or existing approved providers may seek approval from the Quality Regulator to provide particular kinds of aged care services, or general approval to provide all kinds of aged care services attracting Australian Government funding.
3. An existing approved provider should be taken to be approved to provide the kinds of services it has been regularly providing in the 12 months prior to the commencement of the new Act (or since their approval, whichever is more recent), and there should be an administrative process to record each such approved provider's scope of approval.
4. When assessing the suitability of new or existing providers, the Quality Regulator should consider (in addition to the matters referred to in sections 63D and 63J of the *Aged Care Quality and Safety Commission Act 2018* (Cth)), the fitness and propriety of the provider and its key personnel, the provider's capacity to deliver high quality and safe services within its scope of approval, and, where relevant, the provider's performance in delivering high quality and safe services of the kinds for which they are approved.

Recommendation 93: Accreditation of high-level home care services

1. By 1 July 2024, the new Act should require a home care service that provides care management, personal care, clinical care, enabling and therapeutic care, or palliative and end-of-life care to be accredited in order to receive Australian Government subsidies.
2. Accreditation periods should vary based on an analysis of performance and risk. Initial accreditation for a new home care service should be for no more than one year, and subsequent accreditation should be for no more than three years.
3. The Quality Regulator should have the power to limit the range of aged care services that a provider may deliver through the approval, accreditation and sanctions processes.

Recommendation 94: Greater weight to be attached to the experience of people receiving aged care

From 1 July 2021 onwards, the Aged Care Quality and Safety Commissioner (and from the commencement of a successor body, that body) should:

- a. periodically publish a report on the experience of people receiving care from an aged care service
- b. ensure that these reports are informed by interviews with at least 20% of people receiving aged care through the service (or their nominated representative)
- c. take into account information from people receiving aged care services and their representatives in accreditation assessments and other compliance monitoring processes
- d. establish channels (including an online mechanism) to allow people receiving aged care services and their families to report their experiences of aged care and the performance of aged care providers, year round.

Recommendation 95: Graded assessments and performance ratings

From 1 July 2022, the Quality Regulator should adopt a graded assessment of service performance against the Aged Care Quality Standards.

Recommendation 96: Responding to Coroner's reports

The new Act should provide that the System Governor is required to:

- a. maintain a publicly available register of reports sent to the relevant body by a State or Territory Coroner that concern the death of a person in connection with the receipt of aged care services
- b. where a Coroner has made a recommendation to the relevant body in the report, within three months of receiving the report, publish a response to the recommendation stating what action it has taken, or intends to take, in relation to the recommendation
- c. in any other case, publish a response to the report on the register within three months of its receipt
- d. provide annual reports to the Inspector-General of Aged Care detailing any action taken in response to Coroner's reports, and an assessment of the impact of such action.

Recommendation 97: Strengthened monitoring powers for the Quality Regulator

From 31 December 2021, the *Aged Care Quality and Safety Commission Act 2018* (Cth) should be amended to confer on the Aged Care Quality and Safety Commissioner (and from the commencement of a successor body, that body) the following additional statutory functions and powers, to be exercised in connection with, or for the purposes of, its functions conferred by that Act:

- a. the function of conducting inquiries into issues connected with the quality and safety of aged care, including matters raised in complaints or reported serious incidents
- b. a power to authorise in writing an officer to enter and remain on any premises of an approved provider at all reasonable times without warrant or consent, and a power to enter premises at other times if the regulator reasonably believes that there is an immediate and severe risk to the safety, health and wellbeing of people receiving aged care
- c. full and free access to documents, goods or other property of an approved provider, and powers to inspect, examine, make copies of or take extracts from any documents.

Recommendation 98: Improved complaints management

1. Complaints about aged care should be managed by a Complaints Commissioner in the Quality Regulator, who should
 - a. be designated to exercise and perform the functions of:
 - i. handling complaints about an issue arising in connection with the provision of aged care services
 - ii. complaints referral and coordination
 - iii. promoting open disclosure and better practice in complaint handling
 - iv. consideration and determination of requests to maintain confidentiality of the identity of complainants
 - b. in relation to these functions, have powers to:
 - i. accept enforceable undertakings, under which the respondent agrees to take certain steps or actions
 - ii. issue directions to respondents to remedy an issue
 - iii. refer complaints to a more appropriate complaints body or regulator, and to obtain information on the action taken, if any, by that complaints body or regulator
 - c. before deciding to close a complaint after undertaking a resolution process, have a duty to advise a complainant of the proposed outcome of the complaint, and seek their views on:
 - i. the way the process has been handled by the Commission
 - ii. the respondent's response to the process
 - iii. the proposed outcome of the process.
2. The new Act should provide that complaints may be made to the Quality Regulator. If a complainant or a respondent is not satisfied with the Complaints Commissioner's handling of a complaint or the outcome, the complainant or respondent may refer the matter to the Inspector-General. The Commissioner should refer to the Inspector-General any complaints about the Quality Regulator, its performance of its functions and exercise of its powers.
3. The Inspector-General should have the same powers and be subject to the same requirements as the Complaints Commissioner in relation to complaint handling.

4. The Complaints Commissioner should have a duty to publish a report at least every six months on:
 - a. the number of complaints received and dealt with by the Quality Regulator and the Inspector-General at first instance and on review
 - b. the subject matter of complaints by general topic
 - c. the number of complaints by provider and service
 - d. the average time for conclusion of complaints, against the standard of a substantive response within 60 days
 - e. the outcomes of complaints
 - f. satisfaction with the outcomes of the complaint handling process
 - g. requests for review.
5. The new Act should set out the role of advocacy services in the complaint handling processes of approved providers, the Quality Regulator and the Inspector-General.

Recommendation 99: Protection for whistleblowers

The new Act should contain comprehensive whistleblower protections for:

- a. a person receiving aged care, their family, carer, independent advocate or significant other
- b. an employee, officer, contractor, or member of the governing body of an approved provider

who makes a complaint or reports a suspected breach of the Quality Standards or another requirement of or under the Act.

Recommendation 100: Serious incident reporting

The Australian Government should, in developing a new and expanded serious incident reporting scheme:

- a. ensure that the scheme:
 - i. addresses all serious incidents, including in home care, regardless of whether the alleged perpetrator has a cognitive or mental impairment
 - ii. enables the matching of names of individuals accused of being involved in a serious incident with previous serious incident reports

- b. require the Quality Regulator to publish the number of serious incident reports on a quarterly basis at a system-wide level, at a provider level, and at a service or facility level
- c. impose a requirement on an approved provider to provide a plan detailing the action it intends to take in response to a reported incident and the report of any investigation of the incident the provider has undertaken or caused to be undertaken
- d. confer statutory powers on the Quality Regulator to enable it to:
 - i. require a provider to take specified remedial action in relation to an incident within a specified period
 - ii. require a provider to investigate an incident in a manner and within a timeframe specified
 - iii. oversee the investigation of and response to a serious incident by a provider
 - iv. require a provider to take other action in relation to the incident that the Quality Regulator considers reasonable in the circumstances
 - v. investigate the circumstances surrounding the incident.

Recommendation 101: Civil penalty for certain contraventions of the general duty

1. The new Act should provide that, on application by the Quality Regulator to a court of competent jurisdiction, a breach by an approved provider of the general duty to provide high quality safe aged care is a contravention of the Act attracting a civil penalty if:
 - a. the act, omission or conduct giving rise to the breach also gives rise to a failure to comply with one or more of the Aged Care Quality Standards, and
 - b. the breach gives rise to harm, or a reasonably foreseeable risk of harm, to a person to whom the provider is providing care or engaged under a contract or understanding to provide care.
2. The new Act should also provide that such a contravention attracts accessorial liability for key personnel who:
 - a. aids, abets, counsels or procures the approved provider to commit the contravention, or
 - b. is in any other way, directly or indirectly, knowingly concerned in, or party to, the contravention by the approved provider.

Recommendation 102: Compensation for breach of certain civil penalty provisions

The new Act should provide:

- a. that an order may be made on the application of the Quality Regulator to a court of competent jurisdiction that an approved provider that has contravened a civil penalty provision, or a person involved in the contravention, pay damages for any loss and damage suffered by a person receiving aged care services as a direct result of the contravention, and
- b. for a private right of action for damages in a court of competent jurisdiction by, or on behalf of, a person receiving aged care services who has suffered loss and damage as a direct result of a contravention of a civil penalty provision, in which proceeding any findings or admissions of the contravention in another proceeding may be adduced in evidence as proof that the contravention occurred.

Recommendation 103: A wider range of enforcement powers

The new Act should confer on the Quality Regulator:

- a. a wider range of enforcement powers, including enforceable undertakings, infringement notices and banning orders
- b. the power to suspend or remove one or more of the people responsible for the executive decisions of a provider in response to non-compliance, where the Quality Regulator is satisfied that there is an immediate and severe risk to the safety, health and wellbeing of one or more people receiving care, and appoint an external manager
- c. the power to impose a sanction revoking the provider's approval unless the provider agrees to the appointment of an external manager.

Recommendation 104: Aged Care Quality and Safety Commission capability review

1. By 1 May 2021, the Australian Government should commission an independent review of the capabilities of the Aged Care Quality and Safety Commission.
2. By 1 January 2022, the Australian Government should implement the recommendations of the review and provide the resources identified in the review that are needed for the Quality Regulator to engage and develop a skilled and dedicated compliance and enforcement workforce, with the regulatory and investigatory skills, clinical knowledge, assessment skills, and enforcement skills required for it to meet its regulatory mandate.

Recommendation 105: Transparency around the performance of the Quality Regulator

Commissioner
Briggs

1. By 1 July 2021, the Aged Care Quality and Safety Commission (and from the commencement of a successor body, that body) should provide additional information in its public reporting on the effectiveness of the regulatory system and its performance in safeguarding the quality of life and quality of care provided to people receiving aged care. This reporting should include:
 - a. performance against a standard suite of commonly applied measures of regulatory performance, such as complaints, serious incident reports, reviews and inquiries, enforceable undertakings, notices of non-compliance, sanctions including civil penalties, disqualification of individuals, appointment of administrators, withdrawal of accreditation or approved provider status
 - b. information on the experience of people receiving care and their families
 - c. actions taken to improve the quality and safety of services, including those directed to Aboriginal and Torres Strait Islander people and other vulnerable groups
 - d. information on enforcement actions against regulated entities
 - e. measurable indicators on the outcomes of the regulatory actions taken by the regulator, and
 - f. changes in regulatory outcomes over time.
2. There should be a statutory obligation on the Aged Care Safety and Quality Authority to provide information to the System Governor, for inclusion in the national information service, on compliance and enforcement, serious incident reporting and complaints by provider and service.

Recommendation 106: Enhanced advocacy

1. By 1 July 2022, the Australian Government should, through the implementation unit responsible for implementation of the Royal Commission's recommendations, complete a consultation with the contracted provider of services under the National Aged Care Advocacy Program to determine the extent of unmet demand for prompt advocacy services by people seeking or receiving aged care services. The consultation should also consider the need for:
 - a. additional funding for the provision of education and systemic advocacy by the contracted provider of services.
 - b. capacity building of advocacy services.
2. In light of the conclusions reached by the implementation unit after that consultation, the Australian Government should increase the funding of the National Aged Care Advocacy Program to establish a sustainable funding base that provides for increased coverage of the program to meet currently unmet demand for prompt advocacy services, including education, and systemic advocacy, as well as the infrastructure required to support an effective national network of advocacy organisations.
3. As an interim measure, by 1 July 2021 the Australian Government should provide additional funding and other supports to enable the development of an effective national advocacy network. To this end, the National Aged Care Advocacy Program should be provided with an immediate funding increase to:
 - a. enable a minimum of 5% of older people to access advocacy services
 - b. enable advocacy networks to
 - i. provide education;
 - ii. undertake systemic advocacy
 - c. support capacity building of the advocacy network through training of formal advocates and the development of clear guidelines and processes to support a nationally consistent advocacy service.

Chapter 15: Research and Development and Aged Care Data | Commissioner Pagone

Recommendation 107: Aged Care Research and Innovation Fund

1. The new Act should provide for the establishment of an Aged Care Research and Innovation Fund to be administered by the System Governor.
2. The Australian Government should provide funding equal to 1.8% of total Australian Government expenditure on aged care to the Aged Care Research and Innovation Fund each year, without derogating from the amount of funding available for research and innovation through the Australian Research Council and the National Health and Medical Research Council. Researchers in ageing and aged care should continue to have equal right of access to the funds administered by these other research councils.
3. By 1 July 2022, the Australian Government should establish and fund a dedicated Aged Care Research and Innovation Council.
4. The Aged Care Research and Innovation Council should be funded to:
 - a. make recommendations to the System Governor on expenditure from the Aged Care Research and Innovation Fund
 - b. set the strategy and agenda for:
 - i. research into, and innovation in, the delivery of aged care, including workforce-related research and technology
 - ii. research into the socioeconomics of ageing
 - iii. research into, and innovation in, the prevention and treatment of ageing-related health conditions
 - c. facilitate networks between research bodies, academics, community organisations, industry, government and the international community for research, technology pilots and innovation projects, to assist with the translation of research into practice to improve aged care and to address issues associated with ageing in Australia
 - d. work with the Australian Research Council, the National Health and Medical Research Council, participants in teaching aged care programs, and health and research networks to facilitate the sharing and application of research outcomes with policymakers, research bodies, health care bodies, approved providers and the community.

5. The Aged Care Research and Innovation Council should be chaired by a member appointed by the majority of Council members. The Council should consist of eight members appointed by the Australian Government for (renewable) periods of up to three years on the basis of their distinguished research records or achievements in research and development. The remuneration of the members of the Aged Care Research and Innovation Council should be determined by the Remuneration Tribunal.
6. On the advice of the Aged Care Research and Innovation Council, the System Governor should make grants from the Aged Care Research and Innovation Fund to support:
 - a. research into, and innovation in, the delivery of aged care, including through co-funding arrangements with industry and aged care providers, and through workforce-related research and technology
 - b. research into the socioeconomics of ageing
 - c. research into, and innovation in, the prevention and treatment of ageing-related health conditions.

7. The Aged Care Research and Innovation Council and the System Governor should, in performing their functions in relation to grants from the Aged Care Research and Innovation Fund, be guided by the following aims:

**Commissioner
Pagone**

- a. about half of the funding allocated at any given time should be for research into, and innovation in, the delivery of aged care, with:
 - i. about half of that funding allocated to projects supported by substantial co-funding arrangements with industry and aged care providers, and
 - ii. priority given to research and innovation that involves co-design with older people, their families and the aged care workforce
- b. about 10% of the funding allocated at any given time should be for research into the socioeconomics of ageing
- c. about 20% of the funding allocated at any given time should be for research into, and innovation in, the prevention and treatment of ageing-related health conditions.

8. The Aged Care Research and Innovation Council and the System Governor should, in performing their functions in relation to grants from the Aged Care Research and Innovation Fund, be guided by the following aims:

**Commissioner
Briggs**

- a. the total funding allocated to the Aged Care Research and Innovation Fund should be split equally between ageing-related health research and aged care-related research

- b. the aged care-related research funding should be allocated in the following way:
 - i. about two-thirds of the funding allocated at any given time should be for research into, and innovation in, the delivery of aged care, with:
 - A. about half of that funding allocated to projects supported by substantial co-funding arrangements with industry and aged care providers, and
 - B. priority given to research and innovation that involves co-design with older people, their families and the aged care workforce, and
 - ii. about one-third of the funding allocated at any given time should be for research into the socioeconomics of ageing.

Recommendation 108: Data governance and a National Aged Care Data Asset

1. By 1 July 2022, the *Australian Institute of Health and Welfare Act 1987* (Cth) should be amended to require and empower the Australian Institute of Health and Welfare to perform the below functions, which should be funded from the Aged Care Research and Innovation Fund.
2. The new functions of the Australian Institute of Health and Welfare will be:
 - a. to collect (directly or in association with other bodies or people), store and manage aged care-related information and statistics (including information on the aged care workforce, the economics of aged care, the operation of the aged care market, and the delivery of aged care services), in consultation with the Australian Bureau of Statistics if necessary
 - b. to coordinate the collection and production of aged care-related information and statistics by other bodies or persons
 - c. to publish aged care-related information and statistics, whether by itself or in association with other bodies or persons
 - d. subject to the enactment and commencement of the proposed *Data Availability and Transparency Act* (Cth), to develop and enter into data sharing agreements, in accordance with that proposed Act, with accredited users and data service providers to obtain and provide access to the use of aged care-related data

- e. to develop methods and undertake studies designed to assess the provision, use, cost and effectiveness of aged care services and aged care technologies
 - f. to conduct and promote research into aged care services in Australia
 - g. to develop, in consultation with the Australian Bureau of Statistics and the Australian e-Health Research Centre, specialised statistical standards and classifications relevant to aged care services (including national minimum datasets), and to advise the Bureau on the data to be used by it for the purposes of aged care-related statistics
 - h. to oversee the development of a standard format for presentation of aged care data, including consideration of data interoperability with the health care sector
 - i. to curate and make publicly available a National Aged Care Data Asset, which should at a minimum include data on:
 - i. the demographics, clinical characteristics and care needs of aged care recipients, and the aged and health care services they use
 - ii. the demographics, skills and wages and conditions of the aged care workforce
 - iii. the financial performance of aged care providers, the quality of care provided, and their ownership types, operating segments, size and any other characteristics deemed relevant by the Australian Institute of Health and Welfare to analyse the aged care sector's functioning
 - j. to publish information about the quality and safety of aged care services at facility or service level
 - k. to ensure that Australian Government entities with responsibility for or involvement in aged care, researchers, and other bodies as appropriate, have access to aged care-related information and statistics held by the Institute or by bodies or persons with whom contracts or arrangements have been entered into by the Institute
 - l. to publish methodological and substantive reports on work carried out by or in association with the Institute under this recommendation
 - m. to make recommendations to the System Governor, as well as to the responsible Minister, on the improvement and promotion of aged care services in Australia.
3. The Australian Institute of Health and Welfare should have appropriate government funding and resourcing for the employees and information and communications technology needed to perform its functions, including 'business to government' and 'government to government' data sharing in or near real time.

4. For the avoidance of doubt, nothing in the above is intended to prevent the System Governor or the Quality Regulator from collecting and analysing data in administering the aged care system, or commissioning research on the aged care system.
5. The new Act should require that:
 - a. the System Governor
 - b. the Quality Regulator
 - c. the Pricing Authority, and
 - d. approved providers of aged care

provide data to the Australian Institute for Health and Welfare in accordance with its requirements within three months of the end of the relevant reporting period, and that they respond to other requests for aged care-related data by the Australian Institute for Health and Welfare in a timely manner.
6. The Australian Institute of Health and Welfare should store, manage and refine for presentation, and regularly publish, the National Aged Care Data Asset, with the first such publication by 1 July 2025. The Institute is to accredit software used for collection of data for the data asset, quality indicator data and data relating to compliance with the Aged Care Quality Standards.
7. The System Governor should be responsible for the following additional functions:
 - a. to facilitate the development of software and Information and Communications Technology systems to enable automatic reporting by approved providers on mandatory reporting obligations, quality indicators, prudential arrangements, data for the Aged Care National Data Asset and other responsibilities
 - b. to establish arrangements consistent with the 'collect once, use many times' principle, including:
 - i. information and communications technology interoperability arrangements between the System Governor and the Australian Commission on Safety and Quality in Health and Aged Care to enable the sharing of data related to aged care
 - ii. ensuring administrative data relevant to approved providers, such as assessment data, is made available to providers
 - iii. ensuring a mechanism exists for approved providers to transfer, in an effective and secure manner, information about an individual when the individual changes service providers.

8. In carrying out its functions, the Australian Institute of Health and Welfare should be guided by the principle that de-identified data is to be made publicly available to support research into, and scrutiny of, the provision of aged care services, but personal information must not be released.

9. From 1 July 2022, the System Governor should establish and chair a 'management group' of senior representatives from:

Commissioner
Pagone

- a. the Australian Institute of Health and Welfare
- b. the Pricing Authority
- c. the Australian Commission on Safety and Quality in Health and Aged Care
- d. the Australian Bureau of Statistics

to manage the development of a framework for the national minimum aged care datasets, informed by reference to the aged care quality indicators that are to be developed by the Australian Commission on Safety and Quality in Health and Aged Care, and the development of the datasets themselves.

Chapter 16: Data, Research, Innovation and Technology | Commissioner Briggs

Recommendation 108: Data governance and a National Aged Care Data Asset

See above.

Recommendation 107: Aged Care Research and Innovation Fund

See above.

Recommendation 109: ICT Architecture and investment in technology and infrastructureCommissioner
Briggs

1. From 1 July 2022, the Australian Government should invest in technology and information and communications systems to support the new aged care system. That investment should have the following elements:
 - a. systems that are designed to enable better services for older people, including
 - i. a new service-wide client relationship management system interoperable with My Health Record for care management, case monitoring and reporting systems built around older people's care, that would move progressively to real-time and automated reporting within five years
 - ii. data and information that is accessible, complete, accurate and up to date, and
 - iii. standardised systems and tools to make the user experience easy and efficient, with minimal separate portals and a single point of entry for older people and approved providers
 - b. pre-certified assistive technologies and smart technology to support both care and functional needs and manage safety, and to support the quality of life of older people. These technologies are to:
 - i. be universally available and enabled through internet and wifi access, and funded by the Australian Government
 - ii. be put into older people's homes to help in the provision of care and improve older people's level of social engagement, and
 - iii. support the development and use of mobile care finder and mobile assessment applications
 - c. interoperability of information and communications systems to enable the sharing of data and information about people receiving care between aged care and health care providers and relevant government agencies. Where appropriate, this interoperability should be enabled by expanding the scope of the Aged Care Data Compare project to encompass care in the home so that a full set of Fast Health Care Interoperability Resources data standards is developed for aged care assessment and services.
2. By July 2022, the System Governor should develop an Aged Care Information and Communications Technology Strategy in consultation with older people and various stakeholders to provide a road map to implement these and related initiatives.

Chapter 17: Funding the Aged Care System | Commissioner Pagone

Recommendation 110: Amendments to residential aged care indexation arrangements

1. Commencing with effect on 1 July 2021, the Australian Government should amend the indexation arrangements for residential aged care so that all care subsidies, and the viability supplement, are increased on 1 July each year by the weighted average of:
 - a. 60% of the yearly percentage increase to the minimum wage for an Aged Care employee – Level 3 under the *Aged Care Award 2010* (clause 14.1) that is determined by the Fair Work Commission immediately prior to 1 July as part of the annual review of award minimum wages
 - b. 30% of the yearly percentage increase to the minimum wage for a Registered nurse Level 2 – pay point 1 under the *Nurses Award 2010* (clause 14.3) that is determined by the Fair Work Commission immediately prior to 1 July as part of the annual review of award minimum wages
 - c. 10% of the yearly percentage (to the 31 March immediately preceding the indexation date) increase to the Australian Bureau of Statistics Consumer Price Index.
2. Whenever the Fair Work Commission makes a change to a minimum wage in either the *Aged Care Award 2010* or the *Nurses Award 2010* other than as part of the annual review of award minimum wages, subsidies should be indexed from the operative date of those increases by the weighted average of:
 - a. 60% of the percentage increase to the minimum wage for an Aged Care employee – Level 3 under the *Aged Care Award 2010* (clause 14.1) that is determined by the Fair Work Commission
 - b. 30% of the percentage increase to the minimum wage for a Registered nurse Level 2 – pay point 1 under the *Nurses Award 2010* (clause 14.3) that is determined by the Fair Work Commission.
3. The increases based on these arrangements should apply to the financial year commencing 1 July 2021 and continue until such time as the Pricing Authority has commenced independent determination of prices for residential care.

Recommendation 111: Amendments to aged care in the home and Commonwealth Home Support Programme indexation arrangements

1. Commencing with effect on 1 July 2021, the Australian Government should amend the indexation arrangements for home care and the Commonwealth Home Support Programme so that subsidy rates are increased on 1 July each year by the weighted average of:
 - a. 55% of the yearly percentage increase to the minimum wage for a Home Care employee – Level 3 pay point 1 under the *Social, Community, Home Care and Disability Services Industry Award 2010* (clause 17.3) that is determined by the Fair Work Commission immediately prior to 1 July as part of the annual review of award minimum wages
 - b. 15% of the yearly percentage increase to the minimum wage for a Registered Nurse Level 2 – pay point 1 under the *Nurses Award 2010* (clause 14.3) that is determined by the Fair Work Commission immediately prior to 1 July as part of the annual review of award minimum wages
 - c. 30% of the yearly percentage (to the 31 March immediately preceding the indexation date) increase to the Australian Bureau of Statistics Consumer Price Index.
2. Whenever the Fair Work Commission makes a change to a minimum wage in either the *Social, Community, Home Care and Disability Services Industry Award 2010* or the *Nurses Award 2010* other than as part of the annual review of award minimum wages, subsidies should be indexed from the operative date of those increases by the weighted average of:
 - a. 55% of the percentage increase to the minimum wage for a Home Care employee – Level 3 pay point 1 under the *Social, Community, Home Care and Disability Services Industry Award 2010* (clause 17.3) that is determined by the Fair Work Commission
 - b. 15% of the percentage increase to the minimum wage for a Registered Nurse Level 2 – pay point 1 under the *Nurses Award 2010* (clause 14.3) that is determined by the Fair Work Commission.
3. The increases based on these arrangements should apply to the financial year commencing 1 July 2021 and continue until such time as the Pricing Authority has commenced independent determination of prices for aged care in the home.

Recommendation 112: Immediate changes to the Basic Daily Fee

1. The Australian Government should, no later than 1 July 2021, offer to provide funding to each approved provider of residential aged care adding to the base amount for the Basic Daily Fee by \$10 per resident per day, for all residents. The additional funding should be provided only on a written undertaking that:
 - a. the provider will conduct an annual review of the adequacy of the goods and services it has provided to meet the basic living needs of residents, and in particular their nutritional requirements, throughout the preceding 12 months, and prepare a written report of the review
 - b. the review report will set out:
 - i. details of the provider's expenditure to meet the basic needs of residents, especially their nutritional needs, and will include spending on raw food, pre-processed food, bought-in food, kitchen staff (costs and hours), and the average number of residents
 - ii. changes in expenditure compared with the preceding financial year
 - iii. the number of residents who have experienced unplanned weight loss or incidents of dehydration
 - c. by 31 December each year, commencing in 2021, the governing body of the provider will attest that the annual review has occurred, and will give the review report and a copy of the attestation, to the System Governor
 - d. the System Governor should make the annual review report publicly available
- Commissioner
Briggs**
- e. in the event of failure to comply with the above requirements, the provider will be liable to repay the additional funding to the Australian Government, and agrees that this debt may be set-off against any future funding as a means of repayment.
2. The Australian Government will commence payment of the additional funding to a provider within one month of the provider giving its written undertaking.
 3. The results of any review may be taken into account in any reviews of the compliance of the provider with the Aged Care Quality Standards.
 4. This measure should continue until such time as the Pricing Authority has commenced its independent determination of prices for aged care.

Recommendation 113: Amendments to the Viability Supplement

1. With immediate effect, the Australian Government should continue the 30% increase in the Viability Supplement that commenced in March 2020, as paid in respect of each residential aged care service and person receiving home care, until the Pricing Authority has determined new arrangements to cover the increased costs of service delivery in regional, rural and remote areas and has commenced independent determination of prices.
2. The increased indexation arrangements proposed in Recommendations 110 and 111 should apply in addition to the measure in this recommendation.

Recommendation 114: Immediate funding for education and training to improve the quality of care

1. The Australian Government should establish a scheme, commencing on 1 July 2021, to improve the quality of the current aged care workforce. The scheme should operate until independent pricing of aged care services by the Pricing Authority commences. The scheme should reimburse providers of home support, home care and residential aged care for the cost of education and training of the direct care workforce employed (either on a part-time or full-time basis, or on a casual basis for employees who have been employed for at least three months) at the time of its commencement or during the period of its operation. Eligible education and training should include:
 - a. Certificate III in Individual Support (residential care and home care streams) and Certificate IV in Ageing Support
 - b. continuing education and training courses (including components of training courses, such as 'skill sets' and 'micro-credentials') relevant to direct care skills, including, but not limited to, dementia care, palliative care, oral health, mental health, pressure injuries and wound management.
2. Reimbursement should also include the costs of additional staffing hours required to enable an existing employee to attend the training or education. The scheme should be limited to one qualification or course per worker.

Recommendation 115: Functions and objects of the Pricing Authority

1. Before the commencement of independent pricing of aged care services by the Pricing Authority, preliminary work on estimating the costs of providing high quality aged care should be undertaken by or at the direction of the implementation unit or taskforce referred to elsewhere in these recommendations.
2. Upon its establishment, by 1 July 2023, under the new Act, the Pricing Authority should take over that work and all resources developed by the implementation unit.
3. The functions of the Pricing Authority should include:
 - a. providing expert advice to the System Governor on optimal forms for funding arrangements for particular types of aged care services and in particular market circumstances
 - b. reviewing data and conducting studies relating to the costs of providing aged care services
 - c. determining prices for particular aged care services based on estimates of the amounts (whether constituted by government subsidies or user payments or both) appropriate to the provision of high quality and safe aged care services
 - d. evaluating, or assisting the System Governor to evaluate, the extent of competition in particular areas and markets
 - e. advising on appropriate forms of economic regulation, and, where necessary, implementation of such regulation.
4. In undertaking its functions, the Pricing Authority should be guided by the following objects:
 - a. ensuring the availability and continuity of high quality and safe aged care services for people in need of them
 - b. ensuring the efficient and effective use of public funding and private user contributions in the provision of high quality and safe aged care services, taking into account the principles of competitive neutrality
 - c. promoting efficient investment in the means of supply of high quality and safe aged care services in the long-term interests of people in need of them
 - d. promoting the development and retention of a highly motivated and appropriately skilled and numerous workforce necessary for the provision of high quality and safe aged care services in the long-term interests of people in need of them.

Commissioner
Pagone

Recommendation 116: Requirement to participate in Pricing Authority activities

1. By 1 July 2022, the *Accountability Principles 2014 (Cth)* should be amended to require participation by approved providers in cost data reviews.
2. By 1 July 2023, the new Act should require that as a condition of approval or continued approval, aged care providers are required to participate in any activities the Pricing Authority requires to undertake its functions, including transmitting cost data in a format required by the Authority for the purposes of costing studies. The Authority should take costs associated with these activities into account when determining funding levels.

Recommendation 117: Grant funding for support services to be funded through a combination of block and activity based funding

1. The Pricing Authority should advise the System Governor on the combination and form of block and activity based grants that should be adopted for social supports, respite, and assistive technology and home modifications, having regard to the characteristics of these services and market conditions where they are delivered.
2. Growth funding of 3.5% should continue to be provided for these service categories until a demand-driven planning regime is in place.
3. The Australian Government should grant fund these services from 1 July 2022.

Commissioner
Briggs

Recommendation 118: New funding model for care at home

1. By 1 July 2024, the Australian Government should pay subsidies for service provision within the care at home category through a new funding model that takes the form of an individualised budget or casemix classification. The new funding model should provide an entitlement to care based on assessed need across the following domains:
 - a. care management
 - b. living supports—cleaning, laundry, preparation of meals, shopping for groceries, gardening and home maintenance

- c. personal, clinical, enabling and therapeutic care, including nursing care, allied health care and restorative care interventions
 - d. palliative and end-of-life care.
2. The funding model should be developed as part of the development of the new care at home category (see Recommendation 35). Ongoing evidence-based reviews should be conducted thereafter to refine the model iteratively, and ensure that it provides accurate classification and funding to meet assessed needs.

Recommendation 119: Maximum funding amounts for care at home

1. With effect from 1 July 2024, the Australian Government should provide funding for a person receiving care at home in accordance with their assessed needs, subject to the following limitation.
2. The funding available for a person receiving care at home should be no more than the funding amount that would be made available to provide care for them if they were assessed for care at a residential aged care service.

Recommendation 120: Casemix-adjusted activity based funding in residential aged care

By 1 July 2022, the Australian Government should fund approved providers for delivering residential aged care through a casemix classification system, such as the Australian National Aged Care Classification model. The classification system should take into account the above recommendations for high quality aged care. Ongoing evidence-based reviews should be conducted thereafter to refine the model iteratively, for the purpose of ensuring that the model provides accurate classification and funding to meet assessed needs.

Recommendation 121: Incentives for an enablement approach to residential care

From 1 July 2022, the following incentives should be incorporated into the rules, principles and guidelines for assessment and funding eligibility:

- a. an approved provider should be paid retrospectively from the date when a reassessment was requested where it is determined on reassessment that a person is entitled to a higher level of funding, and the provider can demonstrate that it has been providing the higher level of care
- b. a resident should not be required to be reassessed for funding eligibility if their condition improves under the care of a provider.

Recommendation 122: Reporting of staffing hours

1. From 1 July 2022, the *Accountability Principles 2014* (Cth) should be amended to require all approved providers of residential aged care to report, on a quarterly basis, setting out total direct care staffing hours provided each day at each facility they conduct, specifying the different employment categories (including personal care workers, enrolled nurses engaged in direct care provision, registered nurses engaged in direct care provision, and allied health care professionals engaged in direct care provision).
2. The System Governor should assess the reports against the minimum staffing requirements, and initiate appropriate action in cases of non-compliance.

Recommendation 123: Payment on accruals basis for care at home

The Australian Government should pay home care providers for services delivered or liabilities incurred from Home Care Packages on accrual.

Recommendation 124: Standardised statements on services delivered and costs in home care

1. The Australian Government should develop and implement a standardised statement format for home care providers to record services delivered and costs incurred on behalf of Home Care Package holders.
2. From 1 July 2022, providers should be required to issue completed statements in the standardised format to people receiving their care on a monthly basis.
3. From 1 July 2022, providers should be required to provide reports on a quarterly basis in a standard format setting out total direct care staffing hours provided each day at each home they service, specifying the different employment categories (including personal care workers, enrolled nurses engaged in direct care provision, registered nurses engaged in direct care provision, and allied health care professionals engaged in direct care provision).

Commissioner
Briggs

Recommendation 125: Abolition of contributions for certain services

1. Individuals who are assessed as needing social supports, assistive technologies and home modifications, or care at home should not be required to contribute to the costs of that support.
2. Individuals who are assessed as needing residential care should not be required to contribute to the costs of the care component of that support.

Recommendation 126: Fees for respite care

1. Individuals receiving respite care under the new Act should only be required to contribute to the costs of the services that they receive associated with ordinary costs of living (as defined in Recommendation 127, below) up to a maximum of 85% of the single basic age pension, and any additional services they choose to receive. They should not be required to contribute to the costs of the accommodation and care services that they receive.
2. The level of the maximum amount that respite providers may recover for the ordinary costs of living should be determined by the Pricing Authority.

3. The new Act should also contain provisions that ensure that individuals who are unable to pay the co-payments toward the ordinary costs of living are not denied access to the high quality respite care that they have been assessed as needing.
4. The Australian Government should pay each approved provider of respite to a person an amount representing the difference between the contribution the person makes to their ordinary costs of living in accordance with paragraph 126.1 and the amount that the respite provider may recover (which may not exceed the amount calculated by the Pricing Authority in accordance with paragraph 126.2).

Recommendation 127: Fees for residential aged care—ordinary costs of living

1. Individuals receiving residential aged care under the new Act should be required, subject to the other parts of this recommendation, to contribute to the costs of the goods and services that they receive to meet their ordinary living needs, comprising all the goods and services currently specified in Part 1 of Schedule 1 of the *Quality of Care Principles 2014 (Cth)* (the ordinary costs of living).
2. The Pricing Authority should determine the maximum amount payable for residents' ordinary costs of living based on an analysis of the efficient costs of delivering high quality goods and services to meet their ordinary living needs (the Services Fee Amount).
3. The maximum level of the fee that an individual resident can be asked to pay toward the ordinary costs of living (Basic Daily Fee) should be determined in accordance with provisions in the new Act and should equal the sum of:
 - a. a base fee equal to 85% of the maximum amount of the basic age pension, and
 - b. a means tested amount determined in accordance with Recommendation 129 or 141,

and must not exceed the Services Fee Amount most recently determined by the Pricing Authority in accordance with Recommendation 127.2 above.
4. The new Act should contain provisions that ensure that individuals who are unable to pay the Basic Daily Fee are not denied access to high quality residential aged care.

5. The new Act should also provide that where:
- a. an approved provider provides residential care to an individual and charges an amount for that individual's ordinary costs of living, and
 - b. the amount charged does not exceed the Services Fee Amount most recently determined by the Pricing Authority in accordance with Recommendation 127.2, and
 - c. the Basic Daily Fee payable by the individual is below the amount charged by the approved provider for the individual's ordinary costs of living,
- then
- d. the Australian Government will pay the approved provider the difference (Ordinary Cost of Living Top-up Subsidy) between:
 - i. the Basic Daily Fee for the individual, and
 - ii. the amount charged by the approved provider for the individual's ordinary costs of living.

Recommendation 128: Fees for residential aged care accommodation

**Commissioner
Pagone**

1. Individuals receiving residential aged care under the new Act should be required, subject to the other parts of this recommendation, to contribute to the costs of their accommodation.
2. The new Act should recognise two categories of residents for the purposes of regulation of amounts payable for accommodation: residents for whose accommodation the Australian Government will pay or contribute (eligible residents) and residents for whose accommodation the Australian Government will not make any contribution.

Eligible residents

3. The Pricing Authority should from time to time determine the maximum amount or amounts payable for the accommodation of eligible residents, based on an analysis of the efficient costs of delivering high quality accommodation and a reasonable rate of return on capital investment (Accommodation Supplement). In doing so, the Pricing Authority may at its discretion determine one uniform amount to apply in all cases, or a number of different amounts based on factors such as the date of construction or refurbishment of the facility, the size or other features of the room, and the region or degree of remoteness of the location of the facility.

4. Subject to Recommendation 128.6, the new Act should provide that the maximum amount an approved provider may receive for the accommodation of a resident should be the Accommodation Supplement determined by the Pricing Authority in Recommendation 128.3 above, payment of which will comprise:
 - a. a means tested fee for accommodation determined in accordance with Recommendation 129, payable directly by the individual resident, and
 - b. funding of the difference between the means tested fee for accommodation and the maximum level determined by the Pricing Authority in Recommendation 128.3 above, payable by the Australian Government (Accommodation Top-up Supplement).
5. The new Act should contain provisions that ensure that individuals who are unable to pay for accommodation are not denied access to high quality residential aged care.

Other residents

6. Where an individual is determined in accordance with Recommendation 129 to have a means tested fee for accommodation greater than the Accommodation Supplement determined by the Pricing Authority in accordance with Recommendation 128.3 above, then
 - a. no Accommodation Top-Up Supplement is payable in respect of such a resident, and
 - b. the fee that the individual may be charged is not limited to the Accommodation Supplement, but subject to Recommendation 128.7 should be subject to a provisional upper limit (to be determined by the Pricing Authority from time to time) (Provisional Accommodation Charge Limit).
7. The Pricing Authority:
 - a. should from time to time determine the Provisional Accommodation Charge Limit, based on an analysis of the efficient costs of delivering high quality accommodation and a reasonable rate of return on capital investment, being either a uniform amount that will apply in all cases, or a number of different amounts that will apply in different cases, based on factors such as the date of construction or refurbishment of the facility, the size or other features of the room, and the region or degree of remoteness of the location of the facility
 - b. may, on the application of an approved provider, and after consideration of factors including the cost of investment and any particular constraints on supply of residential aged care services in the relevant area, determine that the Provisional Accommodation Charge Limit for one or more rooms of a facility should be varied to a different amount.

Recommendation 129: Changes to the means testCommissioner
Pagone

1. For each individual receiving residential aged care under the new Act, a means tested amount should be determined in accordance with the following parts of this recommendation.
2. If the individual is in receipt of an *income support payment* or a *service pension* or an *income support supplement* or a *veteran payment* (as defined in the *Social Security Act 1991* (Cth) and the *Veterans' Entitlements Act 1991* (Cth)), then their means tested amount is zero.
3. If the individual is not in receipt of an *income support payment* or a *service pension* or an *income support supplement* or a *veteran payment*, then their means tested amount is determined as the maximum of the following two amounts:
 - a. the *income tested amount* referred to in Recommendation 129.4 below, and
 - b. the *asset tested amount* referred to in Recommendation 129.5 below.
4. The *income tested amount* for the individual is calculated as follows:
 - a. the income tested amount is equal to 50% of the difference between the individual's *total assessable income* and the individual's *total assessable income-free area*where:
 - b. the individual's *total assessable income* is the amount that would be worked out as the care recipient's ordinary income for the purpose of applying Module E of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991* (Cth)
 - c. the individual's *total assessable income-free area* is the maximum level that a person's ordinary income could be for the purpose of applying Module E of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991* (Cth) where that person remains eligible for a pension.
5. The *asset tested amount* is calculated as follows:
 - a. The annual *asset tested amount* is equal to 7.8% of the difference between the individual's *total assessable assets* and the individual's *total assessable asset free area*

where:

- b. the individual's *total assessable assets* is the amount that would be worked out as the care recipient's ordinary income for the purpose of applying Module G of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991 (Cth)*
 - c. the individual's *total assessable asset free area* is the maximum level that a person's assessable assets could be for the purpose of applying Module G of Pension Rate Calculator A at the end of section 1064 of the *Social Security Act 1991 (Cth)* where that person remains eligible for a pension.
6. Where that means tested amount is less than or equal to the maximum rate of the Ordinary Cost Of Living Top-up Subsidy (as determined under Recommendation 127) then:
- a. the individual is required to pay a means tested ordinary cost of living fee for the purpose of Recommendation 127.3 equal to the means tested amount
 - b. the individual is not required to pay a means tested accommodation fee for the purpose of Recommendation 128.4
 - c. the approved provider receives an Ordinary Cost of Living Top-up Subsidy equal to the difference between the maximum rate of the top-up subsidy and the means tested amount, and
 - d. the provider receives the maximum rate of the Accommodation Top-up Supplement.
7. Where that means tested amount is greater than the maximum rate of the Ordinary Cost of Living Top-up Subsidy (as determined under Recommendation 127) and less than or equal to the sum of the maximum rates of the Ordinary Cost of Living Top-up Subsidy and the Accommodation Top-up Supplement then:
- a. the individual is required to pay a means tested ordinary cost of living fee for the purpose of Recommendation 127.3 equal to the maximum rate of the Ordinary Cost of Living Top-up Subsidy
 - b. the individual is required to pay a means tested accommodation fee for the purpose of Recommendation 128.4 equal to the means tested amount minus the maximum rate of the Ordinary Cost of Living Top-up Subsidy
 - c. the provider receives no Ordinary Cost of Living Top-up Subsidy, and
 - d. the provider receives an Accommodation Top-up Supplement equal to the difference between the sum of the maximum rates of the Ordinary Cost of Living Top-up Subsidy and the Accommodation Top-up Subsidy and the means tested amount.

8. Where that means tested amount is greater than sum of the maximum rates of the Ordinary Cost of Living Top-up Subsidy and the Accommodation Top-up Supplement then:
 - a. the individual is required to pay a means tested ordinary cost of living fee for the purpose of Recommendation 127.3 equal to the maximum rate of the Ordinary Cost of Living Top-up Subsidy, and
 - b. the individual's accommodation fees are subject to Recommendations 128.6 and 128.7 above, and
 - c. the provider receives no Ordinary Cost of Living Top-up Subsidy, and
 - d. the provider receives no Accommodation Top-up Supplement.

Chapter 19: Prudential Regulation and Financial Oversight | Commissioner Pagone

Recommendation 130: Responsibility for prudential regulation

1. From 1 July 2023, the System Governor should be given by statute the role of the Prudential Regulator for aged care with responsibility for ensuring that, under all reasonable circumstances, providers of aged care have the ongoing financial capacity to deliver high quality care and meet their obligations to repay accommodation lump sums as and when the need arises.
2. The System Governor should also be given by statute the role of developing and implementing an effective financial reporting framework for the aged care sector that complements the purposes of the prudential standards.

Recommendation 131: Establishment of prudential standards

From 1 July 2023, the Prudential Regulator should be empowered under statute to make and enforce standards relating to prudential matters that must be complied with by approved providers, relating to:

- a. the conduct of the affairs of providers in such a way as to:
 - i. ensure that they remain in a sound financial position, and
 - ii. ensure continuity of care in the aged care system, or
- b. the conduct of the affairs of approved providers with integrity, prudence and professional skill.

Recommendation 132: Liquidity and capital adequacy requirements

From 1 July 2023, the Prudential Regulator should be empowered under statute to impose liquidity and capital adequacy requirements on approved providers, for the purpose of identifying and managing risks relating to whether:

- a. providers have the financial viability to deliver ongoing high quality care
- b. providers of residential care services that hold Refundable Accommodation Deposits are able to repay those deposits promptly as and when required.

Recommendation 133: More stringent financial reporting requirements

1. From 1 July 2023, the Prudential Regulator should be empowered under statute to require approved providers to submit financial reports.
2. The frequency and form of the reports should be prescribed by the Prudential Regulator.

Recommendation 134: Strengthened monitoring powers for the Prudential Regulator

From 1 July 2023, the Prudential Regulator should have the following additional statutory functions and powers, to be exercised in connection with, or for the purposes of, its prudential regulation and financial oversight functions:

- a. the power to conduct inquiries into issues connected with prudential regulation and financial oversight in aged care
- b. the power to authorise in writing an officer to enter and remain on any premises of an approved provider at all reasonable times without warrant or consent
- c. full and free access to documents, goods or other property of an approved provider, and powers to inspect, examine, make copies of or take extracts from any documents.

Recommendation 135: Continuous disclosure requirements in relation to prudential reporting

1. From 1 July 2023, every approved provider should be required under statute to comply with continuous disclosure requirements to inform the Prudential Regulator of material information of which the provider becomes aware that:
 - a. affects the provider's ability to pay its debts as and when they become due and payable, or
 - b. affects the ability of the provider or any contractor providing services on its behalf to continue to provide aged care that is safe and of high quality to individuals to whom it is currently contracted or otherwise engaged to provide aged care.
2. The Prudential Regulator should also have the power under statute to designate events, facts or circumstances that may give rise to continuous disclosure obligations.

Recommendation 136: Tools for enforcing the prudential standards and guidelines and financial reporting obligations of providers

1. From 1 July 2023, the Prudential Regulator should have the powers to take such action, and impose such obligations upon approved providers, as it considers necessary to deal with any breach of the new prudential standards or the financial reporting requirements, including a failure to comply with the continuous disclosure requirements.
2. The powers which the Prudential Regulator should be given should include:
 - a. the power to give directions to a provider that mirror those that can be made by the Australian Prudential Regulation Authority pursuant to the *Private Health Insurance (Prudential Supervision) Act 2015 (Cth)*
 - b. the power to impose administrative penalties in respect of any breach
 - c. the power to apply to a court of competent jurisdiction for a civil penalty in respect of any relevant alleged contravention
 - d. the ability to accept enforceable undertakings
 - e. the ability to impose sanctions to limit the ability of the provider to expand its services, revoke accreditation for a service, or revoke approved provider status.

Recommendation 137: Building the capability of the regulator

The Australian Government should ensure that the Prudential Regulator has prudential capability in relation to the aged care sector that includes the following:

- a. an effective program to recruit and retain senior forensic accountants and specialists with prudential regulatory experience, and sufficient numbers of supporting employees who have either accounting qualifications or other financial skills
- b. systems and processes to capture, collate, analyse and share regulatory intelligence from internal and external sources to build a risk profile of approved providers
- c. a system and processes to monitor indicators of risk revealed by providers' financial reporting tailored to the aged care sector and to respond to them in a timely manner
- d. an electronic forms and lodgement platform for the use of all large operators, with an optional alternative electronic filing system available for smaller operators
- e. appropriate resourcing of the above system and processes, including design expertise, information and communications technology requirements, technical support, and recruitment and training of sufficient numbers of appropriately skilled staff.

Chapter 20: Financing the New Aged Care System | Commissioner Pagone

Recommendation 138: Productivity Commission investigation into financing of the aged care system through an Aged Care Levy

Commissioner
Pagone

By 1 July 2021, the Australian Government should refer to the Productivity Commission for inquiry and report under the *Productivity Commission Act 1998* (Cth) s 11 the potential benefits and risks of adoption of an appropriately designed financing scheme based upon the imposition of a hypothecated levy through the taxation system.

Chapter 21: Funding the Aged Care System | Commissioner Briggs

Recommendation 115: Functions and objects of the Pricing Authority

See above.

Recommendation 139: Parliamentary scrutiny of determinations by the Pricing Authority

Commissioner
Briggs

1. The determination of prices by the Pricing Authority under Recommendation 115.3(c) should be in the form of a legislative instrument subject to Parliamentary disallowance.
2. If the determination by the Pricing Authority is disallowed, legislation should provide for the Minister to make a new determination in the form of a legislative instrument subject to Parliamentary disallowance.

Recommendation 116: Requirement to participate in Pricing Authority activities

See above.

Recommendation 117: Grant funding for support services to be funded through a combination of block and activity based funding

See above.

Recommendation 118: New funding model for care at home

See above.

Recommendation 119: Maximum funding amounts for care at home

See above.

Recommendation 120: Casemix-adjusted activity based funding in residential aged care

See above.

Recommendation 121: Incentives for an enablement approach to residential care

See above.

Recommendation 122: Reporting of staffing hours

See above.

Recommendation 123: Payment on accruals basis for care at home

See above.

Recommendation 124: Standardised statements on services delivered and costs in home care

See above.

Recommendation 110: Amendments to residential aged care indexation arrangements

See above.

Recommendation 111: Amendments to aged care in the home and Commonwealth Home Support Programme indexation arrangements

See above.

Recommendation 112: Immediate changes to the Basic Daily Fee

See above.

Recommendation 113: Amendments to the Viability Supplement*See above.***Recommendation 114: Immediate funding for education and training to improve the quality of care***See above.*

Chapter 22: Personal Contributions and Means Testing | Commissioner Briggs

Recommendation 125: Abolition of contributions for certain services*See above.***Recommendation 126: Fees for respite care***See above.***Recommendation 127: Fees for residential aged care—ordinary costs of living***See above.***Recommendation 140: Fees for residential aged care accommodation****Commissioner
Briggs**

1. Individuals receiving residential aged care under the new Act should be required, subject to the other parts of this recommendation, to contribute to the costs of their accommodation.
2. The Pricing Authority should from time to time determine the Accommodation Supplement as the maximum amount or amounts payable for the accommodation of a resident eligible to receive the supplement under the means test (an eligible resident), based on an analysis of the efficient costs of delivering high quality accommodation and a reasonable rate of return on capital investment. The Pricing Authority may determine one uniform amount to apply in all cases, or a number of different amounts based on factors such as the date of construction or refurbishment of the facility, the size or other features of the room, and the region or degree of remoteness of the location of the facility.

3. The new Act should provide that the maximum amount an approved provider may receive for the accommodation of an eligible resident should be the Accommodation Supplement determined by the Pricing Authority in Recommendation 140.2 above, payment of which will comprise:
 - a. a means tested amount paid for accommodation determined in accordance with Recommendation 141, payable directly by the individual resident, and
 - b. funding of the difference between the means tested fee for accommodation and the maximum level determined by the Pricing Authority in Recommendation 140.2 above, payable by the Australian Government (Accommodation Top-up Supplement).
4. The Pricing Authority should:
 - a. from time to time determine the Provisional Accommodation Charge Limit (as a lump sum or an equivalent daily amount) applicable to a facility based on factors such as the date of construction or refurbishment of the facility, the size or other features of the room, and the region or degree of remoteness of the location of the facility. The daily amount of the Provisional Accommodation Charge Limit should be based on an analysis of the efficient costs of delivering high quality accommodation and a reasonable rate of return on capital investment
 - b. on the application of an approved provider, and after consideration of factors including the cost of investment and any particular constraints on supply of residential aged care services in the relevant area, determine that the Provisional Accommodation Charge Limit for one or more rooms of a facility should be varied to a different amount.
5. Until Refundable Accommodation Deposits are phased out under Recommendation 142, approved providers may charge residents who are not eligible for the Accommodation Supplement a Refundable Accommodation Deposit (or an equivalent Daily Accommodation Payment) up to the Provisional Accommodation Charge Limit.
6. After Refundable Accommodation Deposits are phased out under Recommendation 142, approved providers may charge residents who are not eligible for the Accommodation Supplement a Daily Accommodation Payment up to the level of the Provisional Accommodation Charge Limit.
7. The new Act should contain provisions that ensure that individuals who are unable to pay for accommodation are supported by the Australian Government and not denied access to high quality residential aged care.

Recommendation 141: Changes to the means testCommissioner
Briggs

1. The means test will determine a means tested amount for each individual receiving residential aged care under the new Act who is not in receipt of an income support payment or a service pension or an income support supplement or a veteran payment (as defined in the *Social Security Act 1991* (Cth) and the *Veterans' Entitlements Act 1991* (Cth)).
2. An individual's means tested amount will be the greater of an amount worked out under the income test or the asset test.
3. An individual's means tested amount under the income test is 25% or 50% of the amount by which their assessable income exceeds the maximum income point at which a part pension is payable.
4. An individual's means tested amount under the assets test is 3.9% or 7.8% of the amount by which their assessable assets exceed the maximum level of assets at which a part pension is payable.
5. The means tested amount is applied first to reduce the Ordinary Cost of Living Top-up Subsidy (as determined under Recommendation 127).
6. If the means tested amount is greater than the maximum rate of the Ordinary Cost of Living Top-up Subsidy it is then applied to reduce the Accommodation Top-up Supplement (as determined under Recommendation 140).
7. If the means tested amount is greater than sum of the Ordinary Cost of Living Top-up Subsidy and the Accommodation Top-up Supplement then the individual's accommodation fees are subject to Recommendations 140.5 and 140.6 above.
8. The lifetime caps on the amount of means tested contributions payable by an individual should be removed.

Chapter 23 Capital Financing for Residential Aged Care | Commissioner Briggs

Recommendation 142: Phasing out of Refundable Accommodation Deposits

Commissioner
Briggs

The Australian Government should:

- a. from 1 July 2025, begin to phase out Refundable Accommodation Deposits for new residents
- b. assist providers with the transition away from Refundable Accommodation Deposits as a source of capital by establishing an aged care accommodation capital facility, with the terms and conditions of assistance designed to create incentives for providers to develop small household models of accommodation.

Chapter 24: Financial Oversight and Prudential Regulation | Commissioner Briggs

Recommendation 130: Responsibility for prudential regulation

See above.

Recommendation 131: Establishment of prudential standards

See above.

Recommendation 133: More stringent financial reporting requirements

See above.

Recommendation 134: Strengthened monitoring powers for the Prudential Regulator

See above.

Recommendation 135: Continuous disclosure requirements in relation to prudential reporting

See above.

Recommendation 132: Liquidity and capital adequacy requirements

See above.

Recommendation 136: Tools for enforcing the prudential standards and guidelines and financial reporting obligations of providers

See above.

Recommendation 137: Building the capability of the regulator

See above.

Recommendation 143: Implementation of new arrangements for financial oversight and prudential regulation

Commissioner
Briggs

If the Government Leadership model is adopted, implement the reforms to financial oversight and prudential regulation arrangements set out in Recommendations 130, 131, 132, 133, 134, 135, 136, and 137 from 1 July 2022.

Chapter 25: Financing the New Aged Care System | Commissioner Briggs

Recommendation 144: Introduce a new earmarked aged care improvement levy

Commissioner
Briggs

1. By 1 July 2022, the Australian Government should introduce legislation to Parliament to establish an aged care improvement levy of a flat rate of 1% of taxable personal income. The levy imposed should be levied, and paid, for the financial year commencing on 1 July 2023 and for all subsequent financial years until the Parliament otherwise provides.
2. The legislation introducing the levy should be based on the *Medicare Levy Act 1986* (Cth).

Chapter 26: Oversight, Implementation and Monitoring

Recommendation 145: Report on recommendations

By 31 May 2021, the Australian Government should report to Parliament about its response to the recommendations in our final report. The report should indicate whether each recommendation directed to the Australian Government is accepted, accepted in principle, rejected or subject to further consideration. The report should also include some detail about how the recommendations that are accepted will be implemented and should explain the reasons for any rejections.

Recommendation 146: An implementation unit

Commissioner
Pagone

1. Pending the establishment under the new Act of the Australian Aged Care Commission, an administrative unit or body should forthwith be established by the Australian Government (through the Australian Department of the Prime Minister and Cabinet) and properly staffed and resourced to implement and direct implementation of the Royal Commission's recommendations (implementation unit).
2. From the commencement of the new Act, the Australian Aged Care Commission should implement and direct implementation of the recommendations of the Royal Commission.

Recommendation 147: An implementation taskforce**Commissioner
Briggs**

The Australian Department of Health and Aged Care should promptly establish a taskforce to implement and direct implementation of the Royal Commission's recommendations, supported by a cross-department Deputy Secretary Steering Committee on Aged Care Reform.

Recommendation 148: Evaluation of effectiveness

1. The Inspector-General of Aged Care should monitor the implementation of recommendations and should report to the responsible Minister and directly to the Parliament at least every six months on the implementation of the recommendations.
2. The Inspector-General of Aged Care should undertake independent evaluations of the effectiveness of the measures and actions taken in response to the recommendations of the Royal Commission, five and 10 years after the tabling of the Final Report.
3. The Inspector-General of Aged Care should report on these evaluations five and 10 years after the tabling of the Final Report.

Endnotes

- 1 References to conferral of statutory functions on the 'Department' should be read as recommendations that the relevant statutory functions be conferred on the Secretary of the Department (who may delegate to the Associate Secretary or other person).