

Commonwealth Aged Care Reforms: Analysis and Considerations for Victorian Councils

July 2021

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Purpose

This document provides Victorian Local Government with a comprehensive analysis of the impacts of the Commonwealth's renewed aged care reform plan. It presents critical issues, opportunities, and risks for councils' consideration as they navigate this time of significant change.

Specifically, this paper contains:

1. A summary of the critical issues and considerations facing Victorian councils engaged in the delivery of the Commonwealth Home Support Program, Home Care Packages (HCP) Program and Regional Assessment Services and, the impact of the proposed changes on current contract and service delivery arrangements based on currently available advice
2. A high-level analysis of the Federal Government's response to the recommendations of the Royal Commission into Aged Care Quality and Safety's recommendations, with a primary focus on those matters impacting the funding and delivery of Commonwealth-funded aged care services by Victorian Local Government
3. An overview of the risks and opportunities facing councils reflecting the varied engagement councils have with Commonwealth Aged Care programs and the interpretation of local government's role regarding aged care planning and provision.

As the peak body for Victorian Local Government, the Municipal Association of Victoria is considering the critical issues for councils emerging from the Federal Government's response to the Royal Commission into Aged Care Quality and Safety's recommendations and key matters for further action and advocacy for our sector.

Executive Summary

On 11 May 2021, the Australian Government published its response to the recommendations outlined in the Royal Commission's Final Report into Aged Care Quality and Safety. The announcement coincided with significant Federal Budget announcements, including a \$17.7 Billion Aged Care Reform Package, to initiate an investment and reform program across "5 Pillars over 5 Years."

The Federal Government accepted 126 of the 148 recommendations in full or in principle. The Commonwealth confirmed a suite of legislative, policy and program reforms focussed on transforming the quality, safety and sustainability of the aged care service system. The Commonwealth intends to achieve these goals via the introduction of:

- Enhanced system governance arrangements
- Rigorous requirements and obligations for aged care service provider organisations
- Redesign of the current community aged care programs into an integrated program
- A single comprehensive assessment workforce and the establishment of Commonwealth and community care finders
- A continuing and confirmed commitment to strengthening 'choice and control' for older Australian's across the service system

Within the next ten years, with a line of sight toward an integrated service system, across aged care, health, disability housing, welfare support and social participation, the Commonwealth Government's initial focus is on establishing a new and improved interface and integration between aged care and health. A range of initiatives commencing in residential aged care and health include introducing new digital platforms and the use of My Health Record as the shared client information platform. A reliance on My Aged Care (MAC) as the platform to access aged care information and pathways continues, with the progressive introduction of a Star Rating system to measure aged care provider performance, published on the MAC website to assist future provider selection.

For Victorian Local Government, the promise of transformational change, rigorous provider requirements and continuous reporting obligations provides a significant uplift in the confidence councils can have in the quality, security and safety of the aged care provider market into the future.

As participating community aged care providers, Victorian councils will need to consider the to continue as providers in the context of:

- new responsibilities, requirements and obligations
- their capacity, capability and interest to operate in an intensifying market-driven, competitive environment with consideration for competitive neutrality policy,
- alignment with councils' roles and responsibilities under the *Local Government Act (Vic) 2020* and, by extension, how LG provides an integrated policy, planning and program approach for older residents.

Opportunities and Risks

Although current detail is thin, the aged care service system reform is not without opportunities for councils' consideration. These include:

- The Government's advice regarding an assessment 'workforce' may provide an opportunity for councils to continue their involvement in the delivery of assessment services in the new model if they meet the criteria of a 'capable organisation'.
- The confirmation of funding to establish a Care Finder program (recommended by the Commissioners to be delivered by a tier of government) may provide an opportunity for councils to strengthen current navigation information and support structures. Councils may also utilise this opportunity to establish this function as a significant place-based community resource and asset.
- The establishment of the new 'support at home program' will include funding arrangements that expose selected services to market competition. Other services will be grant and activity-based to secure ongoing availability and sustainability. Councils may elect to continue as a provider of selected services, based on an assessment of a range of factors. This assessment should include the opportunity to access grant-based funding that will provide program certainty and may provide an exemption from competitive neutrality requirements.
- The funding of 80,000 new Home Care Packages may provide an opportunity for those councils in an advanced stage of readiness to enter into the HCP provider market and

commence building capability toward active and sustainable participation in the future Support at Home program.

- The recent confirmation of a further one-year contract extension until June 2023 provides a critical opportunity for councils that have not yet entered into a transparent decision-making process regarding their status post-June 2023. This process should consider transition arrangements regardless of whether councils enter the new 'support at home program' or exit service delivery.
- The clear reform advice and time frames provide an opportunity for councils to consider and determine how they may choose to continue their participation in the aged care service system. Alternatively, councils may explore other approaches to meet the needs of their residents now and into the future. This could include considering options for strategic reinvestment and expansion of existing positive ageing activities.

The reform trajectory also presents risks for councils, including:

- The opportunity to participate in assessment and care finder activities may not eventuate. Or may require councils to choose between continued aged care service delivery or the delivery of these new services to meet funding and delivery requirements. In this event, councils will need to determine their preferred and best direction.
- The Federal Government's further commitment to 'choice and control' confirms the introduction of market models into community aged care services, which are likely to include competitive processes for grant and activity-based funding opportunities. Should this happen, councils will need to consider and interrogate their capacity to meet legislated competition obligations and whether they can succeed in this new market environment.
- Additionally, councils will need to consider the current and emerging local market, the capacity for council to access a sustainable market share, and the impact and value of council's entry into the local and provider market environment.
- The introduction of a range of legislated, mandatory, policy and program obligations, responsibilities and requirements now include organisational governance, leadership, prudential and reporting responsibilities. The extent and impact of these requirements will need to be understood. In addition, the capacity and cooperation of organisation-wide systems, structures and processes will need to be agreed upon to proceed as an approved aged care provider.
- The commitment to strengthening the interface and alignment with health models is apparent across several recommendations. Progressive implementation and application to the 'support at home' program will require councils to meet the rigorous requirements of clinical governance at an organisational and program level and to operate within new digital systems to enable extensive collection and reporting. Transition into these new arrangements will be fundamental to continued participation in aged care service provision.
- Councils' commitment to continued service delivery may compromise their opportunity to provide leadership, facilitation and advocacy activities to influence and inform the service system at a local and jurisdictional level. These activities that work to improve municipal outcomes from a system perspective may be difficult to facilitate in conjunction with

service delivery and market participation. This tension should be assessed and considered in analysing councils best role moving forward

Key Considerations

The confirmation of timelines and activities to facilitate further transformational change across the aged care service system creates an opportunity for councils to consider their best and future role in contributing to the needs and aspirations of older residents now and into the future.

Victorian Local Government has a long and deeply embedded history in the delivery of aged services. Councils also provide a significant range of services, supports and initiatives, beyond the funded aged care service model enabling people to age well in place. Most importantly, councils across Victoria have provided stewardship of the local service system, coordination of planning, engagement and needs analysis and has actively advocated for and directly responded to community needs independently and in partnership with Commonwealth and Victorian Governments.

Consideration of councils' future role in the delivery of aged care services should include the following:

- The introduction of 'choice and control' for people seeking services confirms the further introduction of market-driven competitive processes. The integration of HCP and CHSP into the support at home program signals an alignment of future program arrangements, consistent with the HCP market model. For services funded under future grant and activity-based arrangements, councils will likely need to submit and compete for the opportunity to participate in these services. In each context, councils will need to consider their responsibilities under competitive neutrality policy to confirm their capacity to proceed.
- The progress of the reform, including the fundamental redesign of current community aged care programs, reaffirms the separation from past service models and intergovernmental partnership arrangements. Councils proceeding into the new aged care service system will need to operate independently of any legacy arrangements, residual practices or expectations that refer back to previous program models.
- Councils have responsibilities under the *Local Government Act 2020*, which need to be considered and met so that council activities best meet the needs of residents now and into the future.
- The Federal Government's commitment to marketisation has diminished the sector's capacity to influence policy and program arrangements as service providers. The Commonwealth has no interest in partnership models, which were at the core of Victoria's local government community care system. Councils will be subject to the same expectations and regulations as other approved aged care service providers nationally.
- The role of Victorian Local Government in the delivery of services and supports to older residents does not need to be solely defined by involvement in funded aged care programs. Continued and focused investment in delivering a broad range of priorities sits outside of the remit of funded programs and provides effective place-based solutions, in concert with and independent of other tiers of government.

- Councils' opportunity to strengthen broader planning, advocacy, engagement and stewardship functions, effectively working on the system rather than in the system, may provide significant value and deliberate, more diverse outcomes with greater reach across the municipal community than those connected through service delivery.
- Councils will have a significant role to play in the transition to the new aged care program arrangements. Whether or not councils invest in a process to transition into service delivery under new program arrangements, ensuring the introduction of change does not detrimentally affect local communities reliant on continuity of care arrangements will require planning and participation.
- Partnering with the Victorian Government to achieve the best outcomes would be beneficial. Regardless, councils should consider their role and engagement with the community and other stakeholders as this reform progresses.

Conclusion

As the Commonwealth progresses its reforms, councils will need to actively consider the impacts of such changes on the viability of their services. Innovation and adaptation will be important drivers no matter what action councils choose to take. In addition, changes to governmental relations, including the Commonwealth's receding interest in local government's sphere of activities, presents an opportunity to realign with the State Government and strengthen councils' broader planning and governance roles in line with the new Local Government Act. To ensure the best outcomes for their communities, councils must begin to consider their future involvement in service delivery, either through continued service delivery or further reinvestment into planning, programs, and activities for their older community members.

This summary provides a framework for some of the key considerations based on currently available information. The following section covers some of the key elements of the reforms in greater detail as they pertain to Victorian local government community care service providers.

The Australian Government response to the Aged Care Royal Commission Final Report

The Federal Government's investment in reforming aged care across five key domains is described in the '5 Pillars over 5 Years' framework. The Government's response locates each of the 148 recommendations into one of the 5 Pillars, identifying a measure to classify and confirm achievement of the activity and corresponding timeframe across the five years.

To ensure the extensive commitment to reform is met over this period, the Government adjusted some recommended timeframes to support the complex implementation of projects 'in a streamlined and collaborative way'¹. To date, there are 60 major reform projects underway.

The Five Pillars informing the Government's reform implementation are described as follows:

Pillar One - Home Care: at home support and care based on assessed needs

Pillar Two - Residential Aged Care Services and Sustainability: improving service suitability that ensures individual care needs and preferences are met

¹ Department of Health Home Care Webinar, 20 June 2021

Pillar Three - Residential Aged Care Quality and Safety: improving access to and quality of residential care

Pillar Four - Workforce: growing a bigger, more highly skilled, caring and values-based workforce

Pillar Five - Governance: new legislation and stronger governance

Of the five pillars in this model, the Home Care Pillar is the only pillar requiring completely new architecture to achieve its intentions.

Whereas the other four pillars build on existing systems and structures or contribute targeted solutions to strengthen current practice needs and requirements, the Home Care Pillar requires a comprehensive redesign, development and implementation of a new program.

As committed by the Commonwealth, sector engagement in co-design will be essential to secure the success of this complex and comprehensive redevelopment and deliver enhanced outcomes.

Federal Budget Aged Care Reform Package

The Government's \$17.7 billion aged care reform package included several commitments relevant to Victorian Local Government as an approved provider of Commonwealth-funded aged care programs. These include;

- \$7.5 billion invested in activities under Pillar One: Home Care to;
 - Funding to support the design and planning for a new "and more effective" high-quality in-home care program to meet assessed needs
 - Fund and deliver 80,000 new home care packages over two years, to 2023
 - Support to unpaid and family carers including more and improved access to respite services from 2022
 - Funding to establish the Care Finders program to assist access and navigation of the aged care system
- \$652 million to support workforce initiatives, including;
 - Establishment of a single assessment workforce to simply access to and progress through the aged care system
 - Investment to recruit, upskill existing and train new entrants to the aged care workforce by creating more than 33,000 training places
- \$698 million to support new Governance structures and initiatives as follows;
 - Drafting a new Aged Care Act to legislate the reforms by July 2023
 - Establish new governance structures, including an Inspector General of Aged Care, a National Advisory Council and a Council of Elders
 - Piloting a stewardship model in 8 Primary Health Network locations to improve regional and rural aged care stewardship through the funding of the Department of Health to improve access to quality aged care services for consumers in regional, rural and remote areas, including Aboriginal and Torres Strait Islander peoples and special needs groups (\$630.2 million)²

² <https://www.health.gov.au/news/budget-delivers-177-billion-for-once-in-a-generation-change-to-aged-care-in-australia>; <https://www.pwc.com.au/health/aged-care-royal-commission/insights-from-the-federal-budget.html>.

Impacts on Victorian Local Government as Commonwealth-funded approved aged care providers

A NEW AGED CARE ACT

The Federal Government has committed to establishing a 'new consumer-focused aged care Act' to replace the current *Aged Care Act* 1997 commencing by July 2023, subject to Parliamentary enactment. The Commonwealth has begun consultation with older Australians and other stakeholders, including through new advisory structures, in line with the first three recommendations of the Royal Commission. This consultation will inform the drafting of the new Act that will 'underpin system-wide reform of aged care and establish the legal framework' for the new aged care system.³

The Commissioners recommended the new rights-based, person-centred Act to provide definitions, objects, universal rights and principles that place the older person and people providing informal care at the centre of a universal, accessible, equitable and adequately funded aged care system. The new Act will intend to secure a person's right to safe, high-quality services, transparency, accountability, the right to exercise choice and control in decision making regarding their care and in the selection of appropriate and available service providers.

Current Progress

The Commonwealth commenced drafting the new Act in March of this year and introduced the first Bill to Parliament on 27 May 2021⁴.

This Bill provides three urgent amendments including;

- a new definition of, and changes to, the use of restrictive practices in alignment with the NDIS, and definitive response to breaches;
- the removal of the requirement for the Federal Government to establish the Aged Care Financing Authority;
- The introduction of home care assurance reviews; the power to impose civil penalties in response to non-compliance to written orders; and arrangements for reporting aggregated review outcomes. This reporting may be extended, following consideration by Parliament, to include the identification of non-complying service providers.

Home care assurance reviews will be additional to and different from the current Aged Care Quality Standards Reviews. The scope of activity will involve a review of both the provider organisation and the delivery of its home care services. The review process will include, but not be limited to, financial accounting, client arrangements and administration models and practices. To support the efficacy of this process, the Department of Health will be given the power to access any information regarding the provider organisation and its home care business to inform the review.⁵

³ Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety, Department of Health, May 2021, Recommendation 1, page 1.

⁴ *Aged Care and Other Legislation Amendment (Royal Commission Response No. 1) Bill 2021*

⁵ https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r6723;
<https://www.russellkennedy.com.au/insights-events/insights/home-care-assurance-reviews-coming-your-way>.

Senior Commonwealth Officers recently reflected on their efforts to improve the oversight of providers and enhance their capacity to meet their obligations. They noted that Home Care Packages was the fastest-growing aged care segment in the last 3 to 4 years and that they are continuing to wrap quality and safety infrastructure around this segment.⁶ Therefore, it is reasonable to anticipate the focus of these reviews will initially orient around this provider cohort but is intended and available to have an implementation and ongoing focus across all approved Home Care providers.

Discussion: Opportunities and Risks

The future role, function and sustainability of local government provision and participation in Commonwealth-funded aged care services will need to be considered by councils. The commitment to 'choice and control' will be embedded in the new Act and demonstrated in developing an aged care system that will continue to build market and 'product' options through a strengthened provider environment.

The Act will embed and legislate a raft of new responsibilities, requirements and obligations for approved providers and further consolidate a rigorous alignment with funding and program frameworks. This will reinforce the distance between the new aged care service system and the partnership model foundational to past Victorian aged care program and funding arrangements.

Implementation of the new Act is timed to support the commencement of new arrangements, including implementing the new support at home program. It is reasonable to expect a range of new legislative, legal, and statutory requirements to inform the new program's delivery. Providers will be required to operate in new structural and system environments, likely to be more aligned with clinical care models that will necessitate further cultural, practical and service change for councils. New and more rigorous accountability and reporting requirements will inform the new system. They will be fundamental for new obligations to be met as an approved aged care provider for the Commonwealth.

For councils planning to discontinue direct service provision, in whole or part, the promised rigour of the new Act and inclusion of extensive quality safety and sustainability provisions should offer comfort that future provider arrangements will offer certainty to older residents as they transition to new service models and opportunities.

Putting aside the complexity of continued participation in the new aged care service system, the broader opportunities of the new Act promise significant opportunities and benefits for older Victorians. These include:

- recognition, voice and influence through engagement and consultative mechanisms,
- enhanced safety, quality and certainty across the aged care service system by introducing governance, quality and service transformations.

Victorian Local Government has much to offer in the drafting of the new Act due to more than 70 years of experience in delivering outcomes to older Victorians. There is also a close alignment

⁶ Department of Health, Home Care Webinar, 30 June 2021

with the intentions of the reform and councils' role and responsibilities under the Victorian Local Government Act.

INTEGRATED SUPPORT AND CARE FOR OLDER PEOPLE

Under recommendation four of the Royal Commission, the Commissioners noted that aged care is only one part of 'what an individual may need to ensure a dignified and meaningful life in old age,'⁷. As such, this recommendation calls for 'the Australian Government to coordinate the development of an integrated system for the long-term support and care of older people'. This integrated system, the commissioners propose, would 'provid[e] for their needs for welfare support, community services directed at enhancing social participation, affordable and appropriate housing, high-quality health care, and aged care'.

The Government accepts this recommendation, to be progressed through the Health National Cabinet Reform Committee and following more detailed consideration with the States and Territories. Recognition of the intricacy of this work to address complex jurisdictional and structural fragmentation is reflected in the ten-year timeframe for full implementation.⁸

Current Progress

The integration of the health care and aged care systems is taking precedence over a broader consideration of integration opportunities. This may be the result of critical quality and safety matters emerging from the Royal Commission being identified around the effectiveness, accessibility and intersection of these sectors, particularly with regard to residential aged care and health care interface.

Discussion: Opportunities and Risks

Victorian Local Government is actively involved in a range of diverse and placed based roles and activities to support the participation, security and wellbeing of older people across these domains. As the level of government closest to the community, local government partners with Victorian and Commonwealth Governments and other critical partners and works closely with the municipal community to facilitate improvements, innovation and initiatives to advance and improve outcomes for older people.

Practical leadership in facilitating opportunities and solutions for older people across housing, disability, aged care, health and wellbeing and social participation is widely evidenced across Victorian Local Government, with more isolated communities of interest often reliant on these programs and connections to sustain their access and support to necessary services and solutions.

As such, Local Government is best placed to provide significant value as a partner in the planning, consultation and implementation of a future integrated system. Leveraging its extensive knowledge, relationships and networks, its connection to and relationship with older people and the broader community, and as a provider of local services, municipal planner and expert in the health and wellbeing of its community, local government's participation in the development,

⁷ Final Report: Care Dignity and Respect, Volume 3A, The new system, page 25

⁸ Final Report, Volume 3A, the new system, page 24.

stewardship and implementation of this integrated system will be critical to local and jurisdictional success.

GOVERNANCE

Three perspectives informing the future governance arrangements are discussed in this section. The system and provider governance and the introduction of quality and safety requirements and obligations are best read together and to explore the impact and opportunities for Victorian Local Government.

System Governance

The Government opted for and accepted the recommendations as proposed by Commissioner Briggs. These recommendations provide for the system governor and relevant responsibilities to remain located within the relevant Commonwealth departments, rather than relocated to an independent corporate entity, as proposed by Commissioner Pagone.⁹ Commissioner Pagone's recommendation regarding establishing an advisory council is accepted and included in the governance model.

In accepting Commissioner Briggs' recommendations, the Government confirmed that it would "establish new institutional governance arrangements to oversee the aged care service system. This will improve transparency for the community and provide enhanced market oversight. Strong, effective and transparent governance arrangements will be implemented to improve quality and safety outcomes for senior Australians, enhance trust in the aged care system, improve integration across care settings, and strengthen leadership and accountability."¹⁰

The new system governance arrangements include:

- A new National Aged Care Advisory Council, established from 1 July 2021, to provide expert advice to the government on key matters to the aged care sector, including reform implementation¹¹;
- A range of new institutional governance arrangements to oversee the aged care system as described above
- Establishment of an Inspector-General of Aged Care to provide independent oversight of the aged care system, to identify and investigate systemic issues in aged care provision and regulation, publish its findings and make recommendations
- A new and independent Aged Care Safety and Quality Authority to be established following the capability review of the current Commission to be undertaken in 2023
- Trial of a regional stewardship model, locating Department of Health aged care staff into 8 Primary Health Network areas, for testing and evaluation prior to broader national implementation in response to the identified need for enhanced regional stewardship of aged care
- A Council of Elders, comprised of 10 members, established to provide the voice of and represent the diverse views, experiences and characteristics of senior Australians¹²

⁹ Government accepts Recommendations 8-11 as presented by Commissioner Briggs as the alternative Government led model to Commissioner Pagone's recommendations 5-6, pages 4-12.

¹⁰ Government Response, page 9

¹¹ Commissioner Pagone, Recommendation 7, page. 8

¹² Recommendations 8-11, pages 9-12

Quality and Safety

Twelve recommendations identify a range of new initiatives in response to identified issues impacting the quality safety, accountability and sustainability of the aged care system.

To support governance, oversight and rigour in the delivery of aged care programs and services the Government has committed to:

- Include a General Duty to provide high quality and safe care into the new Act
- Confirm a definition for High Quality Care and include this in the Act
- Immediate and periodic review and strengthening the current aged care quality standards.

This review commenced in March 2021 and will include matters raised by the Commissioners in recommendation 19 and be completed by 2022 to inform implementation of strengthened quality standards. ACSQHC will assume responsibility for review of Clinical Standards from July 2021 and operating to a 5-year rolling review program.

- An in-principal agreement to relocate aged care standard setting to ACSQHC from July 2021 with further consultation required with States and Territories to confirm this approach
- Transferring Clinical Care standards to ACSQHC with non-clinical standards to remain with the Department of Health
- In principle acceptance of the Commissioners quality principles recommendation.
 - *The Government response proposes new and comprehensive indicators across selected domains by July 2021 and more broadly impacting residential and in home care indicators by the end of 2022*
- The greater use of quality indicators to inform continuous improvement through the National Aged Care Mandatory Quality Indicator program – including public reporting through the Star Ratings process
- The Star Ratings system, to be actively reported through My Aged Care (MAC) by the end of 2022, and providing residential care performance reports to assist with care provider comparisons and decision making by older people, their carers and families
- The Star Rating system to expand to in home care by 2024
- The establishment of new dementia pathways and specialist dementia care services
- Urgent amendment to restrictive practices (underway as previously mentioned)¹³.

Provider Governance

A suite of recommendations commits to new arrangements to improve the governance, leadership, and quality of aged care providers and to ensure the safety and sustainability of providers across aged care settings. The introduction of these more rigorous arrangements requires legislative change, and a number of proposed changes are referred to the drafting of the new Aged Care Act.

New requirements and accountabilities include:

- New governance standards for approved providers, including legislative amendments proposed to be actioned prior to 2023

¹³ Recommendations 13-24, pages 13-20.

- The introduction of “strong legislative obligations” for aged care providers to improve transparency and accountability including the inclusion of leadership responsibilities and accountabilities in the new Act
- Arrangements for the accreditation of high-level home care services, reflected in the new Act and harmonised with other sector approval processes
- New provider approval requirements to ensure suitability, viability and the capacity of services
- Graded assessment and performance ratings through the star rating system
- Improved complaints management and serious incident reporting, including the extension of the latter into in-home and community aged care settings
- A range of changes to strengthen and expand the monitoring and enforcement powers of the Quality Regulator, including public reporting on provider performance
- A capability review of the Aged Care Quality and Safety Commission will commence in 2023, and findings will directly inform the establishment of the new Authority to perform this range of duties
- Consideration of civil penalties and compensation for provider breaches are “subject to further consideration” and will be considered in the drafting of the new Act.¹⁴

Additional mechanisms to ensure approved provider capability and sustainability is supported by Government accepting recommendations to establish new prudential standards for approved providers. These include:

- Introduction of financial and prudential monitoring, compliance, and an intervention framework, intended to strengthen provider reporting and disclosure requirements, commencing July 2021 as the first phase of a three-phase program to secure provider capability and sustainability
- New quarterly financial reporting to Government, commencing July 2022
- Commencing July 2023, in-home care providers will be required to complete the General Purpose Financial Statement, currently only required of residential aged care providers
- The addition of minimum liquidity requirements and capital adequacy requirements for providers into the new Act
- Continuous disclosure requirements regarding current and forecast viability will be required of providers from July 2021, with advice regarding adverse change required from 2022 and material change in corporate structures by 2023.

Discussion: Opportunities and Risks

The Government’s commitment to introduce significant rigour into aged care system governance structures promises to establish significantly strengthened oversight and improved and transparent accountability arrangements for aged care providers across all settings. These new arrangements will assist in providing improved certainty and security as the aged care reform continues to consolidate a competitive market model to deliver choice and control to older people accessing and engaged in the service system.

¹⁴ Recommendations 88-105, pages 58-66

The proposed strengthening of regional stewardship through a network of Commonwealth staff located across Primary Health Network regions will initially be trialled across eight locations and evaluated ahead of a national rollout. A number of stewardship, management and administrative functions are included in the proposed scope of these roles, many of which are currently performed by Local Government, particularly across a range of advocacy, navigation and coordination activities and functions.

As set out in the Victorian Local Government Act, 2020, the role and responsibilities of councils should be considered in the implementation of the recommendations regarding system governance.

The Local Government Act clearly outlines the role, responsibilities and obligations held by Local Government. These are consistent with the aged care reform intentions to strengthen community voice and participation in decision making, ensure active and effective local stewardship, and secure equitable access to integrated services and supports.

The MAV's submission to the Royal Commission summarises this as follows;

“The role of local government in system governance is embedded in its legislated responsibilities. The Victorian Local Government Act 2020 locates responsibility to provide equitable and appropriate services and facilities for the community. Local government also has responsibilities to protect, improve and promote the public health and wellbeing of its residents, under the Public Health and Wellbeing Act 2008. In exercising these responsibilities local government in Victoria has provided a significant and co-operative stewardship role that has directly and effectively contributed to a service system grounded in partnership and sector co-operation that informs planning coordination and delivery of aged care services relevant to the local needs, placed based priorities and future population and demographic requirements. Local government facilitation and leadership supports the interaction and intersection of health, community, residential and private service providers systems and networks.”

Further advocacy and engagement with Commonwealth and Victorian Government to secure Local Government's legislated responsibilities into planning, design and implementation of the reform and its efficacy at the local level will assist in delivering the Commissioners' intended outcomes.

The establishment of consultative mechanisms to secure the voice of older Australians into the planning and implementation of the reforms would be well served to draw from the established local government consultative structures and networks. These existing structures could support and inform jurisdictional and specialist representation into the Council of Elders, and ensure members are representative of diverse views to Government for consideration. Local Government advocacy to support effective consultative structures to resource the Council of Elders, and other public consultative structures and strategies, should be considered. Victorian Local Government participation and representation into other national consultative mechanisms should also be considered in this advocacy approach.

The introduction of new provider governance and quality and safety requirements introduce significant legislated and mandatory responsibilities, obligations, and accountabilities to secure the delivery of aged care services into the future. Commitment to the strengthening of provider approval processes, the introduction of legislated obligations, and a focused program to assess, rate and make publicly available providers' performance promises to provide significant security and confidence to older Victorians engaging with the service system.

Combined with the introduction of comprehensive financial and prudential monitoring and compliance, the security and sustainability of aged care providers will be monitored, managed, and maintained under new administrative arrangements.

Commitment to establishing formal and legislated definitions and duties, introducing quality principles and improved quality indicators, and effective assessment and rating processes, published to inform consumer choice, will transform those parts of the sector and service system that have underperformed and underprovided.

The transformation of governance arrangements across the system, provider and quality and safety domains provides two primary outcomes for Victorian Local Government.

The first outcome includes safety, security, and confidence in the aged care service system through:

- The introduction of rigour through legislation and mandated activity;
- accountability through an extensive set of new performance and reporting requirements;
- and transparency through the star rating process and commitment to public reporting provides for

Mechanisms for early identification of emerging issues, rigour in approval and accreditation processes and continuous processes to monitor, manage and measure performance will significantly contribute to local service system quality, safety, and reliability. The increased confidence and capability of service participants, over time, to activate choice and control and select their provider based on evidenced performance will significantly contribute to improved outcomes and experiences for older people across all aged care settings.

The progressive establishment of these more rigorous governance, performance and reporting arrangements will be equally required of Victorian councils seeking to continue as Commonwealth-funded aged care providers. This will require significant investment in new systems, structures, and processes for councils, as organisations and as funded service providers, to align with, operate within and report against the new obligations, requirements and accountabilities as outlined above. It is fair to suggest that this will also require significant cultural, performance and administrative change to ensure Local Government can meet the Commonwealth's expectations as an approved provider consistently within the future funding and program parameters.

A NEW AGED CARE PROGRAM

The Government has “accepted in principle” the Commissioners recommendation to implement a new aged care program by 1 July 2024 and proposes that three primary measures will achieve this;

- The introduction of a single assessment workforce for aged care
- The establishment of a Care Finders program
- Establishing a new support at home program to better target services from July 2023, to be designed in consultation with the sector and following further model development¹⁵

Recommendations to improve public awareness of aged care and ensure more accessible aged care information is available were accepted by the Government and confirm My Aged Care (MAC) as the central platform to ensure “consistent accessible inclusive reliable and usable information on aged care.”

The Commonwealth is committed to further investment to enhance the system to improve access and navigation of the system for all users and the introduction of the Star Rating system onto the platform. A commitment to link carer gateways to MAC will also assist in improving access for carers over time and their links to respite services.

Coupled with a progressive plan to enhance access to national advocacy, support, and education through the National Aged Care Advocacy Program, the overarching plan is to improve access and build user capability to engage with information, pathways and supports to assist older people to make informed decisions.

The Commonwealth has foreshadowed that digital connection will be the primary mechanism for providers to meet requirements in the future. Manual reporting will no longer be an option, so designing and implementing new systems while maintaining current systems through the transition is a priority in current planning. The introduction of My Health Record as a mechanism to capture and share data across aged care and health carer systems will commence in residential aged care and extend to other settings over time.

There will also be an increased emphasis on digital interaction with older people and other users, acknowledging varying levels of digital maturity across the consumer and user population. So, ease of access and use is a priority in enhancing the current platform.

As recommended by the Commissioners, opportunities for Government to co-operate with other levels of government and a diverse group of providers to improve public awareness of aged care is not specifically addressed and may provide an avenue for further planning and participation under collaborative partnership arrangements.

A Single Comprehensive Assessment Model

Located under the workforce pillar in the Government’s reform framework, the Commissioners recommendation to establish one assessment “process” is reframed in the Government’s response as a single assessment “workforce” to be introduced through a staged implementation program that provides for:

- The assessment workforce to hold responsibility for residential care funding assessments from October 2022 and as the transition to the Australian National Aged Care

¹⁵ Recommendation 25 A New Aged Care Program, page 20.

Classification occurs, providing an independent process to current clinician supported processes

- The new workforce will be responsible to complete new support at home program assessments commencing July 2023
- The workforce will include Aboriginal and Torres Strait Islander assessment organisations from July 2023

The Government outlines its intention to establish the required workforce through an “approach to market” recruitment process that will allow all organisations with assessment capability to participate. However, the model, process, and detail for the assessment mechanism are not provided. No reference is made to previous models presented by the Department of Health in earlier planning for a new assessment framework.¹⁶

In the recent Department of Health Home Care Webinar, senior officers provided some insight into the current thinking, including plans for a proportionate assessment approach that will deliver tailored support plans and that these plans will specify the type and level of service to be provided. Officers described older people allocated to a “class” as a result of assessment, and this classification will provide explicit direction about the level and type of services approved for provision. Given the explicit nature of this classification process, officers are considering the arrangements for a more rigorous reassessment process.¹⁷

Discussion: Risks and Opportunities

The Government’s intention to establish the new workforce through a market approach to capable organisations provides a window of opportunity for Victorian Local Governments interested in remaining in the delivery of assessment services. However, as the model for delivering the new assessment process is unavailable, timing and process for the approach to market and the definition of a ‘capable organisation’ are also yet to be provided. Interested councils would do well to begin preparations, including considering opportunities to explore models and options within the scope of Beneficial Enterprises, as described in the Local Government Act to consider collaborative, regional and geographical responses to the approaching invitation.

Transition arrangements for the transfer of current arrangements to the new model will require the consideration and co-operation of councils. Retention of this valuable workforce will be critical to meet the increased demands on the assessment model over this change period.

The status of CHSP clients remains unclear in descriptions for transition arrangements provided by the Commissioners. As Government remains silent on this matter, further and urgent discussions to clarify and manage the process of change for older Victorians will be essential.

Universally, the successful implementation of a single and comprehensive assessment process promises to provide significant benefit to older people and their carers through simplified access, reduced duplication and assessment based on actual needs rather than allocation into rigid program structures. Transition to this new model will be a complex planning and change exercise.

¹⁶ Recommendation 28 page 22

¹⁷ OpCit, Home Care Webinar, 30 June 2021

The challenges of attracting and retaining a skilled and capable workforce will require urgent attention to ensure the objective and timing of the reform can be met.

Care Finders

The establishment of a new Care Finders program is planned to commence with the location of aged care staff, including an additional 70 staff in areas with higher older populations, in Services Australia Centres. These staff would assist with navigation and connect people to funded services, expanding to the introduction of a Community Care Finders program which will progressively replace the current Navigation Trials, commencing in 2023. This newly funded program will provide 500 Community Care Finders nationally and focus on providing specialist face-to-face support to people with compromised capacity or vulnerability.¹⁸

The program design, implementation plan and location for the Care Finders is not currently available. The structural and functional relationship between this role and assessment activity will also be of interest to understand the profile of both roles in supporting informed and supported access to aged care for older people.¹⁹

Discussion: Risks and Opportunities

Detailed information regarding the program model and implementation plan will assist Local Government to consider its opportunity to participate in the delivery of this service. Many councils are actively and successfully delivering navigation, information and support activities to older people, their carers, and the broader community, seeking to engage with the aged care system.

Further information regarding the role, focus, funding, and scope of the care finder activity will assist councils in determining the alignment of this function with council's commitment to supporting their older citizens. If councils are not eligible or offered the opportunity to participate in this program, consideration regarding the interface with this program and council's engagement with its older community for like purposes will need to be considered and planned.

Councils' continued footprint in delivering these supports recognises the high recognition, and trust communities have in the role of Local Government, and the limited reach that some current models have in engaging with and providing support to older communities. Councils robust connections, established networks, and their continuous role and investment in this space have sustained these functions over decades, and the value of this role to the municipal community is evident.

A watching brief, continued discussion and considered advocacy are recommended to ensure councils are best placed to influence and respond to this opportunity as further information becomes available.

A New Support at Home Program

The Government has confirmed that a new support at home program will be designed, following consultation with the sector and further model development. The development of the new model will include arrangements for a new funding model and payment mechanisms, consideration of

¹⁸ OpCit, Home Care Webinar, 30 June 2021

¹⁹ Recommendation 29, page 23

support to assess and respond to social isolation and loneliness, and further consideration of the role of and assessment method for assistive technology and home modification supports in the at home setting.

The Commissioners' recommendation for aged care planning to be based on need and not rationed is accepted in principle by Government. They intend to include mechanisms to determine future aged care provision into the new program design. The Government has committed to developing the funding model for the new support at home program by the end of 2022, with the new Support at Home Program scheduled to commence from 1 July 2023.

Although little information is available regarding the design of the new program, the Government has accepted the establishment of respite supports, social supports and assistive technology and home modifications categories as proposed by the Commissioners.

Early activities to support the transition to the new support at home program is evidenced in the Government's decision to increase funding to CHSP funded respite services and open this service to eligible people receiving Home Care Package support, effective from January 2022. This initiative is intended to respond to the need for enhanced support to informal carers through improved access to respite services.

Expanded and enhanced access to allied health care in the new support at home model is also accepted with funding to expand allied health services provided through CHSP commencing in the 2021-2022 budget year.

As proposed by the Commissioners, the Care at Home Category is accepted in principle by the Government, who note the proposed design of this category will also provide a range of supports, including help with complex care and dementia-related needs. Development of this complex category will include funding options to determine "appropriate" funding levels and identify the types of services to be included and funded by the Government under this category. The delivery of low-level care needs may be differentiated by removing access to "lead provider" supports, focusing these resources instead on people requiring higher-level care.

The Government response also refers to palliative care coordination and linkages across health and aged care systems, suggesting the scope of services delivered under this category will incorporate entry level to complex and palliative care responses.

Reference to the local role of Primary Health Networks is referenced by Government here and in other responses suggesting that further engagement and partnership with PHN's would assist in local planning and service system stewardship.

The final category, Residential Care, is accepted by the Government who refer to the substantial range of changes recommended by the Commissioners and in progress.

New responsibilities for approved providers will be embedded in the design of the new support at home model, including the provision of care management to older people receiving services,

unless assessed as not required, effective from 1 July 2022. Approved providers will be required to assign a care manager to approved clients and will need to evidence consumer participation in the selection process. For clients engaging multiple service providers, a lead provider will be designated and will assume this responsibility. The care management role will be scalable to the complexity of the older person's needs. Providers will be required to engage appropriately skilled and experienced care managers in these roles.

Approved providers will also be required to demonstrate their capability to provide specialised services for people with diverse backgrounds and life experiences through a verification framework and audit process scheduled to commence in June 2022.

To support the preference and opportunity for older people to age in place, the Commissioners recommended the clearance of the Home Care Packages (HCP) waiting list. The Government has responded with a funded program to establish 80,000 new packages over the 21-22 and 22-23 financial years. It is confident that this will address the current Home Care Packages waiting list.²⁰

Workforce

The Commissioners presented a range of workforce recommendations to address the fundamental need for a skilled and experienced workforce to progress and implement the reform agenda. These recommendations address the overarching need to address the quality of the aged care service and system experience through workforce planning, professional development and training, review of employment and remuneration arrangements and quality initiatives.

The Government accepts the recommendation regarding improved remuneration for aged care workers and is awaiting the outcome of a Fair Work matter to inform advice regarding increases in award wages. The advice provides for these costs to be considered as part of the Independent Hospital Pricing Authority's work on aged care pricing in 2021.

Mandatory minimum qualifications for personal care workers and the suggested enforceable employment status and labour standards are subject to further consideration by the Commonwealth, and these matters have been referred for further specialist advice and guidance.

A Code of Conduct for the 'care and support sector' will be developed and include aged, veterans and disability support sectors and commitment to a nationally consistent, centralised, pre-employment screening check as an alternative to the recommended national registration scheme. Access to advice regarding 'cleared' and 'excluded' workers will be available following the commencement of the system in July 2022, but further detail regarding the model and implementation is pending.

The Federal Budget's aged care reform package has provided budget and resources for the delivery of recruitment and training activities (33,000 places) commencing this financial year to attract, train and upskill existing and new staff across the sector. The delivery of additional dementia and palliative care training and funding to teach these aged care programs is also accepted and in planning.

²⁰ Recommendations 25; 30-41

The Government's internal structures to resource aged care reform workforce planning will be considered in the context of the role of the Aged Care Workforce Industry Council. In addition, the Government has accepted recommendations regarding the review of qualifications and skills frameworks and the review and funding of training courses to educate and skill existing and new staff.

Funding and Fees

The new funding model for Home Care will be developed as part of the new support at home program, and as previously discussed, is expected to be available at the end of 2022. The Minister will determine final decisions about the pricing of aged care, and the Commonwealth has confirmed that there will be no special levy introduced to support the cost of the aged care reform. The Government will introduce legislation to expand the role of the Independent Hospital Pricing Authority to allow work on aged care pricing from July 2021, and aged care providers will be required under legislation to participate in any activities to assist the Authority in its work.

Funding considerations include;

- a model for indexation of aged care in the home that includes wages indexation
- grant funding for support services to be funded through a combination of block and activity-based funding
- maximum funding amounts for care at home
- payment of accruals and payment in arrears for care at home
- standardised statements to become mandatory with the introduction of the support at home program
- abolition of contributions for certain services
- funding for education and training²¹

Discussion: Opportunities and Risks

The opportunity for Victorian councils to continue their involvement in the delivery of assessment services and to leverage their significant and extensive collateral through the delivery of the funded Community Care Finder program, requires further information and detail. Required detail would include funding, program requirements, and a description of capabilities required by the Commonwealth to deliver these outcomes at the local and regional level. The earliest access to details regarding these programs will assist councils in making informed decisions regarding their future participation. For others, the strategic direction of the reform program will provide sufficient advice to inform councils decision process and further planning.

In design development, the schedule to confirm the new support at home program funding arrangements by the end of 2022 and commencement of the new program in July 2023 provides a relatively short timeline to design and plan effective implementation of this complex transformational reform of community aged care. This work relies on associated and interdependent recommendations and change activities, many of which will need to align to

²¹ Recommendations 111-117; 118;119;123-125;143

ensure the progress of the new model. These timeframes are even more fragile for communities experiencing thin access to approved providers or limited choice of quality aged care services.

While the above information remains unavailable, other, more detailed advice from Government has provided insight into the future system and provider governance arrangements, responsibilities and obligations that councils will be required to meet if electing to continue as an approved provider.

As outlined, these new arrangements and obligations will require a whole of council commitment to participate in accountability and reporting frameworks and meet financial and prudential compliance and organisational and service performance requirements.

Signals of a shift toward a stronger clinical governance and delivery focus will require further consideration, particularly concerning those services providing social support and social participation outcomes. In addition, the introduction of new arrangements and a new support at home program will require cultural, system, and structural investment and change as this reform further consolidates the transformation of the aged care service system.

Although some services (to be determined) are proposed to provide a combination of grant and activity-based arrangements, the continuing tension between the cost of councils services and aged care unit pricing remains a continuing concern. The review and pricing of aged care, including the pricing of quality attributes, including workforce attraction quality and retention, may address these tensions but is still to be determined.

The Commonwealth has committed to stakeholder and community consultation to inform this work and noted their intention to engage in a public consultation process in the coming months on key elements of the design.²² Information regarding the structures to engage and contribute to design and development of the new support at home program, prior to this public consultation process, are not yet available.

Upon completing the final program design, the need for transition management and active stewardship to engage the new program while sustaining continuity of care will require significant planning and the active engagement and collaboration of providers and other stakeholders to support its success.

To support arrangements for continuity of community aged care, ahead of the introduction of the new support at home model, councils recently received advice confirming the extension of councils' current contract for a further 12 months, commencing 1 July 2022. For many councils, this provides welcome, additional time to further progress their planning and preparation for involvement in the future support at home program, including those services that will be exposed to competitive market-driven service environments.

The further advice that acceptance of this extension year will require councils to transition to a payment in arrears funding model has presented councils with potential system and financial management challenges. For Victorian councils, already impacted by rate capping, COVID -19

²² Department of Health, Home Care Webinar, 30 June 2021

and the gap between the cost of aged care service delivery and current funding arrangements, uncertainty regarding the impact of these arrangements and the influence this may have on councils continuing participation in the aged care service system requires urgent clarity and advice.

For some councils, additional information and clarity regarding the structural and funding arrangements for the new support at home program will be required to inform decisions regarding continuing participation as an approved provider. For others, the strategic intent and direction of the reform and the significant changes signalled to commence from July 2023 provide enough detail to inform council's further deliberation and decision making.

The MAV's recently confirmed participation as a member of the Commonwealth Extension Year Working Group will actively support and resource the earliest advice and facilitate opportunities to influence and negotiate the issues and impacts of this change decision.

Concluding Remarks

Further information is required to fully understand the opportunities and impacts of the aged care reform and the opportunities available to Local Government to participate in future activities, including Assessment, Community Care Finder and the delivery of selected aged care services as an approved provider.

Independent of councils' involvement in service delivery, their broader role and responsibilities, including community planning and engagement, and active stewardship to secure and promote the health and wellbeing of its community, are not visible in the current reform landscape. The opportunity for Victorian Local Government to work with the State to secure effective transition and implementation of the Commonwealth's reforms and support the delivery of the intended benefits and outcomes for older Victorians requires further consideration, action and advocacy.