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Royal Commission into Aged Care Quality and Safety
GPO Box 1151
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By email: ACRCenquiries@royalcommission.gov.au

Dear Commissioners

Submission - Royal Commission into Aged Care Quality and Safety Interim Report

CPA Australia represents the diverse interests of more than 164,000 members working in 150 countries and regions around the world. We make this submission on behalf of our members and in the broader public interest.

The findings of the Royal Commission outlined in the Interim Report are truly disturbing and should make Australian society seriously reconsider how to support older members of the community.

The widespread examples of poor quality, inadequate and unsafe care are shocking and inexcusable. The stories of neglect are truly confronting and disturbing and cannot be ignored.

One cannot but reach the conclusion that the system is failing, and serious reform and transformation is needed. As the population ages the need for aged care will only increase and the need for adequate support will be critical.

Arguably, there is a fundamental conflict of interest between older Australians requiring care and support services, and an aged care sector that behaves like an industry where large sections are often driven by prioritising return on investment and profit over providing high-quality service and support that is responsive to the needs of the people in its care.

Older Australians deserve to be treated with dignity and respect. As stated in the interim report, "care needs to be compassionate, empathetic and customised to high standards of quality and safety."

CPA Australia encourages the Royal Commission to be comprehensive in its recommendations and for the Government to give serious consideration to wholesale reform.

CPA Australia is not in the position to provide detailed commentary regarding the findings around the quality and safety in aged care and the stories of neglect. We leave that to the experts in this field. However, we make this submission to draw to the Royal Commission's attention three areas that impact older Australians entering into, or considering, aged care. While not directly identified in the terms of reference we believe there is sufficient relevance to people in, and entering, aged care for them to be considered by the Commission. They are:

1. The complexity of the residential aged care funding model and obtaining the necessary advice to guide people and their families through the labyrinth of complex rules that often differ depending on the jurisdiction.
2. The complexity of retirement living arrangements. In particular, the complexity of contracts.
3. Elder financial abuse and how aged care facilities can identify and respond to it.

We provide further details of these areas of concern in the attached.

If you have any queries, please do not hesitate to contact Michael Davison, Advocacy Manager at michael.davison@cpaaustralia.com.au or on 02 6267 8552.

Yours sincerely

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Submission - Royal Commission into Aged Care Quality and Safety Interim Report

1. Complexity of the residential aged care funding model and obtaining the necessary advice to guide people and their families through the labyrinth of complex rules that often differ depending on the jurisdiction

Recognising the need for aged care support is often brought about by necessity due to a sudden event or deterioration in health resulting in hasty decisions needing to be made in often highly stressful, traumatic or emotional circumstances.

Chapter 6 of the interim report focuses attention on the waiting times experienced by older people, first for an Aged Care Assessment and then, in particular, the waiting required before a Home Care Package may become available.

Beyond the delays highlighted, we draw attention to further difficulties faced by older people and their families if the decision has been made to enter residential aged care.

Once the decision has been made, older people and their families still face a myriad of choices when deciding on the aged care home – for example, location, services and care provided, Government subsidised or privately provided, how to fund the care and accommodation, and whether to pay the cost upfront or on an ongoing basis. CPA Australia members, i.e. qualified financial professionals, have informed us, from both their personal experiences when supporting family members and professionally when advising clients, that the permutations of options and decisions that need to be made are often overwhelming and very difficult to make effectively without professional advice.

Firstly, the aged care home. Depending on an older person's location, they may have a number of options available if they are in a capital or large regional city; or they may only have one if they are in a rural or regional area. There will also be circumstances where there is no suitable home near where they live or their family may wish them to relocate to another location to be closer so the family can provide support.

As the My Aged Care website acknowledges, it is a challenging decision: "Aged care homes, like houses, come in all shapes, sizes, and prices. The challenge is finding the right option for your needs, budget, and preferences."

The difficulty is in readily obtaining the necessary information to make an informed decision. The My Aged Care website provides some information and a simple comparison tool but then recommends you make an appointment to visit potential aged care homes, which can be a time-consuming exercise.

More could be done to support people in this process. Additional information and standardised disclosure, including standardised terms and conditions, are required to allow older people and their families to make meaningful comparisons between homes and make informed decisions.

In addition to the accommodation and levels and type of services available, there should be more information available regarding providers themselves and their corporate structures. Being aware if a provider is a not-for-profit or for-profit entity may provide a better insight into the level of services offered, the costs involved, and the value provided.

In addition to choosing the aged care home, decisions need to be made about how to pay the numerous fees and costs involved.

These include:

- The cost of accommodation
- A basic daily care fee
- A means-tested care fee, and
- Fees for other services provided.

By far the largest financial decision is how to pay the accommodation fee, which is set by the aged care home and is likely to run into the hundreds of thousands of dollars. Means-tested government support is available to pay some or all of the fee subject to income and assets tests, otherwise the individual must cover the cost themselves.

Individuals can elect to pay the accommodation fee as:

- a lump-sum upfront, called the Refundable Accommodation Deposit (RAD) or Contribution (if subsidised)
- a rental-style daily payment, the Daily Accommodation Payment (DAP) or Contribution (if subsidised), which operates like an interest-only loan until the RAD is paid, or
- a combination of both.

Making sense of the most effective way to pay the accommodation fee may be very confusing for many older people and their families. However, they must also decide how to fund it and the ongoing care fees.

Their largest asset will most likely be the family home. They can look to sell it to pay the RAD in full or retain it and possibly rent it out to pay the DAP and ongoing fees. However, selling the family home is often complicated by personal and family preferences and may not be possible at all for couples if one member of the couple requires residential aged care while the other one remains in the family home. There are further implications for couples both requiring residential aged care with the financial outcomes varying considerably dependent on them entering aged care on the same day or at different times.

The family then needs to look at alternatives to fund the accommodation or ideally have structured their investments in anticipation of having to fund future aged care costs. These would include using their savings, investment income, liquidating investments, investing in annuities or bonds or utilising a reverse mortgage or other equity release program to provide an income stream or supplement existing income. There is also the issue of reducing rates of home ownership, which will see future generations renting into retirement and not owning a home to utilise when funding aged care.

The option also exists to utilise the Pension Loan Scheme, which lends the equivalent of 150 per cent of the fortnightly maximum rate of the Aged Pension, however, it does require the loan to be secured against real estate and so only suits home owners.

Consideration also needs to be given to how any income from the Aged Pension fits into the above calculations and in particular, how any financial decisions may impact on the Aged Pension going forward.

Superannuation will also be a likely source of funds, however the current aged cohort have not enjoyed a full working life of compulsory superannuation and current superannuation balances on retirement are much lower than what they are likely to be for future generations. Compounding this issue is the fact that funding the cost of aged care has historically not been factored into the government policy deliberations regarding the adequacy of retirement savings.

Overall, it is very unlikely the average person and his/her family will be able to effectively negotiate these decisions without professional advice to fully understand the financial implications, manage the impact on, and ensure, adequate cash flow, satisfy any estate planning needs, and minimise the impact on the aged pension. This need to access financial advice further adds to the cost of the process and the time required to work through it.

Further, the difficulties outlined above are not limited to older people and their families when first moving into an aged care home. The current funding model for residential aged care came into effect from 1 July 2014. Prior to that residents were required to pay an accommodation bond to their aged care provider. If an older person moves to another aged care home, they have the option of staying under the pre-1 July 2014 funding model, i.e. paying an accommodation bond to the new home or being assessed under the current fee arrangements. Again, this decision has the same considerations outlined above and is difficult to make without professional advice.

2. **The complexity of retirement living arrangements, particularly the complexity of contracts.**

While not specifically in the Royal Commission's terms of reference we raise this issue as retirement living will often be a stepping stone to aged care as residents age and their needs change. The cost of retirement living and the fees involved also have a potential impact on an individual's assets and investments and their capacity to adequately fund aged care – either Home Care packages or residential aged care – as a resident's needs change with age.

As highlighted in the Interim Report, large sections of the aged care sector are often driven by prioritising return on investment and profit over providing service and support that is responsive to the needs of older people in its care. Feedback from CPA Australia members suggests this primary focus on profit extends into the retirement living industry with complex contracts and fee structures benefiting providers over the interests of residents.

Retirement living contracts appear to be excessively complex with details of service options, fee and ownership structures, and transfer of and restriction of rights being very difficult, if not impossible, to navigate without obtaining extensive and costly legal and financial advice.

CPA Australia members and their associates have provided examples of personal experiences where they have suffered significant financial losses when exiting retirement living villages due to the difficulty associated with complex contracts. In one case a member was not recognised as a legal owner of a retirement unit, which they had shared with their partner of many years, as they were not named in the contract and would have had to re-purchase the unit from the retirement village owner to be able to remain in it.

We encourage the Royal Commission to also consider the role of retirement living in the aged care sector. As many retirement living residents will ultimately transition to requiring home care support or residential aged care, the path they follow may ultimately be more complicated than for other older people as they will also have to negotiate exiting complex legal arrangements and rely on timely settlement payments from providers in order to adequately fund their entrance into residential aged care. As a starting point, it is important that plain English legal contracts, including a key information summary upfront, are made readily available and that providers are required to act in the best interest of residents in the provision of services.

3. Elder financial abuse and how institutions can identify and respond to it.

Much of the Interim Report focuses on elder abuse in the form of physical and emotional abuse and the impact it has on older people in care. We ask the Royal Commission to also consider incidences of financial abuse that may be experienced by older people receiving aged care.

We are not suggesting that financial abuse is being commonly perpetrated by aged care providers. However, we would like to draw attention to how aged care providers may detect and prevent financial abuse of older people. While our focus is on aged care homes and their residents, measures to deal with it can be equally applied by home care providers.

The World Health Organisation[1] defines financial abuse of an older person as, "The illegal or improper exploitation or use of funds or other resources of the older person". The definition includes acts with adverse outcomes committed not only by people known to and trusted by the victim, but also acts perpetrated by strangers and by institutions.

Abuse may be intentional or unintentional. Intentional financial abuse is defined in Monash University's *Protecting Elders' Assets Study*[2], as "the separation of a person from the benefit of their assets for the benefit of another, involving deliberate intention". Unintended abuse is "the inadvertent or uninformed financial mismanagement or neglect of financial assets which causes the deprivation of benefits to be derived from those assets".

Financial abuse is often combined with other forms of abuse and neglect.

We raise the issue of elder financial abuse after a CPA Australia member in Tasmania shared the family's experience of their mother and her estate suffering financial abuse at the hands of a sibling. We understand the family will be making a submission to the Royal Commission, and so we will only provide a brief summary of the case in this submission. If the Royal Commission requires greater detail, the family has given us permission to provide it upon request.

The mother was a resident of an aged care home in NSW, close to where the brother lived, for a period of 10 years before she died in 2015. The rest of the children lived in Tasmania and the brother, a solicitor, was identified as her Resident Representative and had Power of Attorney over her financial affairs.

It was subsequently discovered in 2017, that the brother had stolen all of the mother's savings, a considerable sum in the $100,000s and had also stolen a larger sum from the deceased estates of clients of his law firm employer, some of which was used to pay the mother's outstanding accommodation debt. He has subsequently been convicted of the fraud against the law firm's clients and is currently serving a two-year prison term.

The family suffered severe emotional, financial and legal stress. However, their primary concern is that the management and staff of the aged care home were not attentive to possible threats of financial abuse of residents and did not act in the best interest of their mother or her estate. They allowed debt to accumulate and attract interest over an extended period of time, at one point reaching $100,000, before deducting it from the accommodation bond 19 months after their mother's death. The family question whether these actions were perhaps in the interest of the provider.

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[1] http://www.who.int/mediacentre/factsheets/fs357/en/

[2] http://www.eapu.com.au/uploads/research_resources/VIC-Financial_Elder_Abuse_Evidence_Review_JUN_209-Monash.pdf

The family believes there were a number of obvious warning signs of financial abuse that were not acted upon by staff and management. These include:

- The accumulation of significant or uncharacteristic debt
- Uncharacteristic and irregular payments of debts
- Cancellation of regular direct debit payments, and
- Payments from unusual sources.

CPA Australia has a guide on its website for accountants to identify and prevent elder financial abuse of their clients, with information sourced from many agencies around the country[3]. The red flags identified above are consistent with the indicators of potential financial abuse identified in the guide.

As trusted carers, it is vital that aged care providers are in a position to detect and prevent financial abuse of people in their care. Unfortunately, complacency and inaction by staff may be a contributing factor.

We encourage the Royal Commission to give consideration to recommending the development of a guide specific to the aged care industry for identifying and preventing elder financial abuse, similar to the CPA Australia guide and those provided by a number of state-based services around Australia.

In addition to guidance provided by these organisations, specific guidance should be included for the aged care industry including:

- Estate planning discussions between professional advisers and an older person and their family should include the potential for and identification of elder abuse
- Aged care providers should provide older people and their family assurances that their duty of care includes having measures in place to deter abuse and processes to deal with identified abuse
- Encouraging more than one Resident Representative to be identified in the Residence Agreement with key situations identified where all Representatives would be contacted
- Annual financial statements to be sent to all Resident Representatives
- Maintaining current contact details of close family members nominated by the resident
- Appropriate training and procedures for accounting and financial staff including:
    - Appropriate payment procedures for residents
    - Indicators of potential abuse, including irregular payments, accumulation of debt and unusual sources of payment, and
    - Procedures to follow when potential problems are identified.

Guidance should also be provided for payment of significant outstanding fees and debt to ensure providers are acting in the best interests of the resident and their families.

[3] https://www.cpaaustralia.com.au/public-practice/toolkit/financial-abuse-of-older-people