

PARLIAMENT OF NEW SOUTH WALES

LEGISLATIVE COUNCIL

STANDING COMMITTEE ON SOCIAL ISSUES

- CARING FOR THE AGED -

AN INTERIM REPORT OF THE INQUIRY INTO
AGED CARE AND NURSING HOMES
IN NEW SOUTH WALES

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NOTE

The proposed reforms examined in this Report are still under debate in Federal Parliament. Details may have changed since Committee Members finalised chapters and recommendations on Friday, 20 June 1997. The Final Report will take into account any changes made after this date.

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TERMS OF REFERENCE

1. That the Standing Committee on Social Issues inquire into, and report on, the state of nursing homes in New South Wales and in particular:
 - a) the extent to which the dignity, privacy, confidentiality and other rights of residents are protected;
 - b) the effect of transferring the responsibility and management of nursing homes from the Commonwealth to the State Government;
 - c) the likely impact of the introduction of entry fees and the increase in user-fees for nursing home residents;
 - d) the adequacy of supported hostel-type accommodation to meet the needs of independent ageing persons;
 - e) the use of existing capital infrastructure to expand services for the aged; and
 - f) the impact on the aged community of the decision of the New South Wales Government to close the Office on Ageing and create the new Ageing and Disability Department.

2. That the Committee report by Monday, 30 June 1997.

COMMITTEE FUNCTIONS

The functions of the Standing Committee on Social Issues are to inquire into, consider, and report to the Legislative Council on:

- any proposal, matter or thing concerned with the social development of the people in all areas of New South Wales;
- the equality of access to the services and benefits including health, education, housing and disability services provided by the Government and non-Government sector to the people in all areas of New South Wales;
- recreation, gaming, racing and sporting matters; and
- the role of Government in promotion community services and the welfare of the people in all areas of New South Wales.

Matters for inquiry may be referred to the Committee by resolution of the Legislative Council, a Minister of the Crown, or by way of relevant annual reports and petitions. The Committee has the legislative power to:

- summons witnesses;
- make visits of inspection within Australia;
- call upon the services of Government organisations and their staff, with the consent of the appropriate Minister;
- accept written submissions concerning inquiries from any person or organisation; and
- conduct hearings.

COMMITTEE MEMBERSHIP

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CHAIR'S FOREWORD

The Committee has been asked to look at conditions in which people requiring nursing home care will find themselves under the Federal proposals to be introduced in October this year and to make recommendations to the New South Wales Parliament arising from our Inquiry.

This Interim Report seeks to address these changes which are the subject of the *Aged Care Bill* presently before Federal Parliament and comment upon them. There are, however, a number of broader issues which the Committee wishes to investigate further and these will be discussed in its Final Report which will be tabled by 30 September 1997.

As in most developed nations, the Australian aged population is growing and changing both in terms of numbers and as a proportion of the population. The cohort is set to rise even more substantially as the "baby boomer" generation retires. The shape of the age pyramid is changing significantly. Clearly, this demographic trend has implications for social policy as the community faces the diverse and complex needs of this group.

Evidence shows that the majority of aged citizens are healthy and independent. Many of them make an invaluable contribution to their families, local communities and society as a whole. Numerous community organisations, for example, rely heavily upon the time and expertise readily given by these individuals. Many of the healthy aged have positive ways of interacting with the community.

As always, the Committee is grateful for the input it received from a number of individuals and organisations who took the time to make submissions and speak with the Committee. In addition, staff and residents freely shared their experiences with Committee Members during site visits to New South Wales nursing homes at Waverley, Summer Hill and Cessnock and at Wudinna and Elliston on the Eyre Peninsula in South Australia.

Once again my Parliamentary colleagues set aside time to consider a range of complicated issues under exceptionally tight deadlines and I thank them for this.

I also wish to thank the Committee's Secretariat staff who performed an excellent task within a very strict time frame. Ms Tanya van den Bosch has had prime responsibility for this Inquiry and preparation of this Report. I am grateful to her for the careful manner in which she undertook the complex research and the considerable detail she presented to Committee Members. She was supervised by Ms Alexandra Shehadie, Acting Director. Committee Officer, Ms Heather Crichton participated in all aspects of the Inquiry - her responsibility for the administrative aspects of the Inquiry process and for the production of the final report was, as always, invaluable. Additional assistance was provided by Ms Gabrielle Leahy, a Macquarie University postgraduate student undertaking an internship at Parliament, and my Research Assistant, Ms Julie Langsworth.

A handwritten signature in black ink, reading "Ann Symonds". The signature is written in a cursive, flowing style with a large initial 'A'.

THE HON. ANN SYMONDS, M.L.C.

COMMITTEE CHAIR

EXECUTIVE SUMMARY

On 31 October, 1996 the Standing Committee on Social Issues received a reference from the Legislative Council of the Parliament of New South Wales to inquire into the state of nursing homes and hostels in New South Wales and report to the Legislative Council by 30 June, 1997. This date was subsequently extended to 30 September, 1997.

The Committee was asked to report on the current state of nursing homes and hostels and examine the likely effects on New South Wales of Commonwealth Government proposals for changes to aged care as contained in the *Aged Care Bill, 1997*. The specific issues of inquiry are: the protection of residents' rights; the likely impact of a user-pays system of funding; the adequacy of 'hostel-type' accommodation; and the use of existing capital infrastructure for the aged. Beyond these issues relating to residential facilities, the Committee has been asked to comment on the impact on the aged community of the closure of the Office on Ageing and the creation of the Ageing and Disability Department.

This Interim Report is the result of extensive research undertaken between November 1996 and June 1997. The Committee has heard from the principal stakeholders: consumers; private for-profit aged care providers; government and non-government not-for-profit aged care providers; and other interest groups such as government departments, local government bodies, community groups and health professionals.

Chapter One, Consumer Rights in Nursing Homes, examines the current safeguards of residents' rights and notes that, generally speaking, the quality of care in nursing homes is very high. Quality control is supervised predominantly by the Commonwealth through a comprehensive range of mechanisms. They include Outcome Standards, Charters of Rights and Responsibilities, mandatory Residential Agreements, Commonwealth Standards Monitoring Teams, a consumer advocacy body and a complaints mechanism. The State has only the nursing home licensing provisions under the *Nursing Homes Act, 1988*, and the *Nursing Homes Regulation, 1996* and recourse to the Health Care Complaints Commission.

However, there is a significant degree of non-compliance with Outcome Standards and despite the comprehensive monitoring, there is a reluctance to impose sanctions. The Committee is concerned to hear of three significant constraints on achieving these outcomes. First, there is a lack of any regulation on minimum staff training levels in

nursing homes, staff-mix ratios, and staff-resident ratios. Second, building design is often inadequate to ensure privacy, confidentiality and dignity for residents. Third, Commonwealth Government control of the distribution and number of nursing home beds severely limits competition in the industry.

Chapter Two, Consumer Rights in the Future: the Aged Care Reforms, addresses further issues of relevance to residents' rights through the examination of the quality control regime proposed by the Commonwealth's accreditation system and its linkage to funding.

After examining the draft accreditation proposals, the Committee is very concerned about the lack of supply and demand interaction to force standards compliance. Supply and demand for residential care are tightly controlled and elderly residents in health crisis cannot act as informed consumers of residential options. The Committee endorses the many sanctions available for non-compliance but remains concerned that the current problem of inadequate monitoring of standards is likely to prevail under the new structure.

Associated with this accreditation system is the removal of a funding system which contains a component of funding tied to the provision of nursing and personal care. The Committee is concerned that this will remove the financial incentive to employ qualified staff and consequently a decline in quality of care may follow. The Committee discusses funding issues further in Chapter Three.

Chapter 3, Nursing Homes: Whose Responsibility?, addresses the effect of transferring the responsibility and management of nursing homes from the Commonwealth to the State Government and examines the impact on the aged community of the decision to close the Office on Ageing and create the Ageing and Disability Department. The Committee is concerned that the proposed transfer of responsibility to the States may be unnecessary as very little duplication currently exists. The Committee heard that the aim of creating efficiency and cost effectiveness by the transfer of responsibility may be purely budget driven. The Committee also heard that the proposed devolution would pose a risk to national standards. Moreover, if New South Wales Health were given this responsibility, acute health needs may be given priority over aged care needs, and aged care would focus on ill-health rather than well-being. The Committee is not convinced of the necessity of devolution, and believes that devolution is undesirable if it places at risk national standards and an equitable funding system. The Committee notes also that the association of ageing with disability in the creation of the Ageing and Disability Department has been a cause of distress and concern.

Chapter 4, Fees, Charges and Funding, examines the current funding components of nursing homes and the new system of funding the upgrading and maintenance of aged care facilities by the imposition of accommodation bonds. The Committee is concerned that industry needs will not be adequately met through the imposition of accommodation bonds: there will be no additional Commonwealth capital grants, except for rural facilities. Moreover, the Committee heard that the bond has implications for equity of access to care: including the possible creation of a two-tiered system with loss of access to quality care for poorer individuals; and a potential disincentive for the industry to open facilities in poorer socio-economic areas.

The Committee heard that accommodation bonds have the potential to disadvantage the sick and/or confused potential residents because of the power imbalance between themselves and the proprietor. The Committee also heard that this user-pays system will create a greater demand on Home and Community Care services, acute health services, and the Guardianship Board with consequent financial implications.

In **Chapter 5, Aged Care Services**, the likely impact of the *Aged Care Bill, 1997*, on hostels and their residents is evaluated, and possible avenues are explored for the expansion of services and the use of existing capital infrastructure. The two significant changes affecting hostels are discussed. The Committee heard that the abolition of the hostel subsidy is likely to exclude individuals who do not have personal care requirements. The likely consequences of such exclusion are an increased demand for Home and Community Services stress on family carers and homelessness in some cases. The proposed amalgamation of nursing homes and hostels into residential aged care facilities has received widespread support but will render State legislation incompatible and will require amendment. The Committee also explored several options for the expansion of services. The Committee found that hostels, church and community facilities offer potential infrastructure for the expansion of services.

This Interim Report will be tabled in the Legislative Council on 30 June, 1997. The Final Report is due by 30 September, 1997 in which the Committee will further explore the issues and make further recommendations.

SUMMARY OF RECOMMENDATIONS



RECOMMENDATION 1:

The Committee recommends that the Minister for Health urge the Commonwealth Minister for Family Services to remove restrictions on bed numbers while retaining limits on numbers of approved residents for residential aged care facilities.

RECOMMENDATION 2:

The Committee recommends that the Minister for Community Services approach the Federal Minister for Family Services to ensure that the Commonwealth Department of Health and Family Services collects data concerning breaches of accreditation standards and publishes them annually.

RECOMMENDATION 3:

The Committee recommends that New South Wales Health collect, collate and publish data on staffing mixes in New South Wales Nursing Homes.

RECOMMENDATION 4:

The Committee recommends that the Ageing and Disability Department fund and produce a video highlighting the rights of residents in residential aged care facilities to dignity, privacy and confidentiality.

RECOMMENDATION 5:

The Committee recommends that the Ageing and Disability Department distribute the video proposed in Recommendation 4 and direct all residential aged care facility staff with resident contact to view the video upon commencement of employment.

RECOMMENDATION 6:

The Committee recommends that the practice of hiring untrained nursing and personal care staff in New South Wales residential aged care facilities be phased out by the year 2000.

RECOMMENDATION 7:

The Committee recommends that the Minister for Health review the existing training options for Assistants-in-Nursing for appropriateness, effectiveness and accessibility.

RECOMMENDATION 8:

The Committee recommends that, if the review called for in Recommendation 7 finds existing training courses for Assistants-in-Nursing to be satisfactory, the Minister responsible for residential aged care facilities phase in a requirement that by the year 2000 all Assistants-in-Nursing in New South Wales residential aged care facilities be required to undertake one of the available courses, in addition to on-the-job training.

RECOMMENDATION 9:

The Committee recommends that, if the review called for in Recommendation 7 finds existing training courses for Assistants-in-Nursing to be unsatisfactory, the Minister for Health develop an appropriate and compulsory entry-level induction course and on-the-job training program for prospective Assistants-in-Nursing in residential aged care facilities.

RECOMMENDATION 10:

The Committee recommends that the Minister for Health amend the *New South Wales Nursing Homes Regulation, 1996* to incorporate an appropriate staff-mix ratio and a staff-resident ratio.

RECOMMENDATION 11:

The Committee recommends that NSW Health, in consultation with dementia specialists, prepare and distribute guidelines for appropriate proportions of dementia-trained staff for facilities with dementia-affected residents.



RECOMMENDATION 12:

The Committee recommends that the Minister for Health request that the Federal Minister for Family Services extend the operation of the National Residential Training Initiative until the new aged care system is fully operational.

RECOMMENDATION 13:

The Committee recommends that the Minister for Health approach the Commonwealth Minister for Family Services to determine what dementia training will be made available by the Commonwealth in the future.

RECOMMENDATION 14:

The Committee recommends that, should the Commonwealth not provide dementia training in the future, the Minister for Health develop and implement a training program similar to that offered under the National Residential Training Initiative, or contract out for the development of such a program, and that the Commonwealth be approached to provide funding for such a program.

RECOMMENDATION 15:

The Committee recommends that NSW Health prepare and distribute, or contract specialist dementia educators to prepare, a video to assist personal and nursing care staff in caring for, and managing the behaviour of, residential aged care facility residents with dementia.

RECOMMENDATION 16:

The Committee recommends that all personal and nursing care staff who care for residents with dementia in residential aged care facilities in New South Wales be required to watch the video proposed in Recommendation 15.

RECOMMENDATION 17:

The Committee recommends that the Minister for Education and Training ensure the development of accredited dementia training courses to be available through TAFE, and that such courses provide distance education access.

RECOMMENDATION 18:

The Committee recommends that the Minister for Health determine the level of need for CADE unit beds for advanced dementia residents in New South Wales and that the Minister for Health negotiate with the Commonwealth Minister for Family Services to alter the guidelines for eligibility for capital grants so that individuals and organisations building CADE units have access to the Commonwealth's designated capital funds.

RECOMMENDATION 19:

The Committee recommends that the Minister for Health ensure that all new nursing homes licenced by NSW Health be required to incorporate dementia-specific accommodation for a proportion of their beds.

RECOMMENDATION 20:

The Committee recommends that the Minister for Health request that the Commonwealth provide a special grants program to encourage the construction of dementia-specific facilities which incorporate innovative features designed to improve the care of residents with dementia; and that recipients of grants be required to make available for dissemination to the industry information explaining and evaluating their design.

RECOMMENDATION 21:

The Committee recommends that the Minister for Community Services negotiate with the Commonwealth Minister for Family Services to improve access to residential and day respite care in dementia-specific facilities for individuals with dementia.

RECOMMENDATION 22:

The Committee recommends that the Minister for Community Services request that the Federal Minister for Family Services ensure that all residential aged care facilities with residents of non-English speaking backgrounds be required to provide the services of a professional interpreter or phone interpreter for all medical assessments, consultations and any negotiations concerning accommodation bonds or residents' fees where a resident needs such services to communicate effectively.

RECOMMENDATION 23:

The Committee recommends that the Minister for Community Services request that the Federal Minister for Family Services ensure that the Single Classification Instrument recognises the additional resources needed to meet the needs of non-English speaking background residents with low levels of fluency in English, and that higher funding be allocated accordingly.

RECOMMENDATION 24:

The Committee recommends that the Minister for Community Services support the NSW Clustering Service being funded on a five-year basis, and approach the Federal Minister for Family Services to request this.

RECOMMENDATION 25:

The Committee recommends that New South Wales Health assess the need for increased psychogeriatric services in all residential aged care facilities, and implement the funding and staffing increases necessary to meet those needs.

RECOMMENDATION 26:

The Committee recommends that the Minister for Health ensure that all residential aged care facilities in New South Wales be required to set aside a private interview room for residents to consult with mental health specialists. The private room should be located as centrally as possible to ensure that the less mobile residents are able to access it.

RECOMMENDATION 27:

The Committee recommends that the Minister for Community Services approach the Federal Minister for Family Services to seek the amendment of the Charter of Residents' Rights and Responsibilities to include a specific reference to a right to sexual relations.

RECOMMENDATION 28:

The Committee recommends that the Minister for Community Services ensure that any impediments preventing residents of aged care facilities under the age of 60 years accessing HACC and other state services be removed as a matter of urgency.

RECOMMENDATION 29:

The Committee recommends that the Minister for Community Services approach the Commonwealth to make the financial arrangements necessary to ensure access of residents of aged care facilities under the age of 60 years to HACC services.

RECOMMENDATION 30:

The Committee recommends that the Minister for Community Services and the Minister for Health together resolve the issue of transporting residents of aged care facilities under the age of 60 years to day centres and other HACC services.

RECOMMENDATION 31:

The Committee recommends that the Minister for Community Services request that the Federal Minister for Family Services ensure the proposed accreditation-based system for quality control in residential aged care facilities embodies the following principles:

- an independent complaints body similar in structure to the Ombudsman's Office;
- the maintenance of the Commonwealth Department of Health and Family Services' role in monitoring the accreditation standards which are currently being developed;
- a separate unit within the Department of Health and Family Services to be responsible for imposing sanctions on facilities which fail to meet the accreditation standards;
- automatic application of the hierarchy of sanctions available under the *Aged Care Bill, 1997* for facilities failing to meet the same standard on three consecutive visits; and
- public access to accreditation standards reports, including posting the accreditation inspection reports in the foyer of each facility.

RECOMMENDATION 32:

The Committee recommends that the State retain its regulatory role until the impact of Commonwealth changes can be assessed, and, in particular, the efficacy of accreditation is determined. Thereafter it may be appropriate that one level of government be responsible for all regulation, providing that all current facets of regulation of standards are maintained.

RECOMMENDATION 33:

The Committee recommends that the Minister for Community Services request that the Commonwealth Minister for Family Services incorporate a quarantining of care funds and a validation process in the new funding system for residential aged care facilities.

RECOMMENDATION 34:

The Committee recommends that the Minister for Community Services request that the Commonwealth Minister for Social Security develop and distribute guidelines for appropriate accommodation bond levels for residential aged care facilities.

RECOMMENDATION 35:

The Committee recommends that the Minister for Community Services request that the Federal Minister for Family Services ensure a mechanism is established to mediate disputes concerning accommodation bonds.

RECOMMENDATION 36:

The Committee recommends that the Minister for Fair Trading request that the Minister for Family Services arrange for mediation powers to be delegated to the Residential Tenancies Tribunal if the mechanism proposed in Recommendation 35 is not established.

RECOMMENDATION 37:

The Committee recommends that the Minister for Community Services assess the likely growth in demand for the Guardianship Board and the Office of the Public Guardian, and negotiate an agreement to have the Commonwealth fund any increase in services resulting from the aged care reforms.

RECOMMENDATION 38:

The Committee recommends that the Minister for Community Services urge the Commonwealth Minister for Family Services to develop alternative methods for residents of aged care facilities to raise funds for an accommodation bond that enable them to retain ownership of the family home.

RECOMMENDATION 39:

The Committee recommends that the Minister for Community Services request that the Commonwealth Minister for Family Services increase the concessional residents' subsidies up to the level equivalent to the amount the facility would have obtained through an accommodation bond.

RECOMMENDATION 40:

The Committee recommends that the Minister for Community Services request that the Commonwealth Minister for Family Services allow facilities with high levels of concessional residents to have access to the Commonwealth's designated capital funds.

RECOMMENDATION 41:

The Committee recommends that the Minister for Community Services approach the Commonwealth Minister for Family Services to review the levels of Commonwealth payments of subsidies for pensioners who are residents of low care residential aged care facilities, and that the resident contribution for such residents be decreased so that their disposable income remains at the current level.

RECOMMENDATION 42:

The Committee recommends that the Minister for Community Services request that Commonwealth Minister for Family Services increase funding for Commonwealth capital grants for residential aged care facilities to ensure that rural and remote facilities are able to access sufficient capital to maintain and improve facilities.

RECOMMENDATION 43:

The Committee recommends that the Minister for Community Services seek an assurance from the Commonwealth Minister for Family Services that the proposed accommodation bond system will be monitored, evaluated and amended if the residential aged care industry's capital needs are not met and equity of access is not maintained after the system has been operational for two years.

RECOMMENDATION 44:

The Committee recommends that the Minister for Community Services approach the Commonwealth Minister for Family Services to review the levels of Commonwealth payments for existing and subsidised residents of hostels (or low care residential aged care facilities, as they will be known) who do not have personal care needs.

RECOMMENDATION 45:

The Committee recommends that New South Wales increase funding for Home and Community Care in order to meet the likely increase in demand for services.

RECOMMENDATION 46:

The Committee recommends that the Minister for Community Services negotiate with the Commonwealth for increased funding for Home and Community Care.

RECOMMENDATION 47:

The Committee recommends that, if the accommodation bond system results in an increase in demand for public housing and boarding house accommodation, the New South Wales Minister for Community Services negotiate with the Commonwealth for increased funding under the Commonwealth State Housing Agreement.

RECOMMENDATION 48:

Having regard to the fact that the new residential aged care system will be in place by 1 October 1997, the Committee recommends that New South Wales Health examine aspects of state legislation and regulations of nursing homes and hostels that will be incompatible with Commonwealth legislation, with a view to amending state legislation where appropriate.

RECOMMENDATION 49:

Having regard to the fact that the new residential aged care system will be in place by 1 October 1997, the Committee recommends that the Department of Ageing and Disability examine aspects of state legislation and regulations of nursing homes and hostels that will be incompatible with Commonwealth legislation, with a view to amending state legislation where appropriate.

RECOMMENDATION 50:

Having regard to the fact that the new residential aged care system will be in place by 1 October 1997, the Committee recommends that the Department of Local Government examine aspects of state legislation and building codes regulations for nursing homes and hostels that will be incompatible with Commonwealth legislation, with a view to amending state legislation where appropriate.

RECOMMENDATION 51:

Having regard to the fact that the new residential aged care system will be in place by 1 October 1997, the Committee recommends that the Department of Fair Trading examine aspects of state legislation and regulations of hostels that will be incompatible with Commonwealth legislation, with a view to amending state legislation where appropriate.

RECOMMENDATION 52:

The Committee recommends that the reviews outlined in Recommendations 48 to 51 above be undertaken in consultation with industry stakeholders and consumer groups, as well as the Commonwealth Department of Health and Family Services.

RECOMMENDATION 53:

The Committee recommends that the relevant State and Commonwealth Ministers take part in discussions concerning the appropriateness of allowing sub-acute care to be administered in nursing homes.

RECOMMENDATION 54:

The Committee recommends that the Minister for Community Services inquire into the feasibility of duplicating the Victorian moveable units program in New South Wales.

RECOMMENDATION 55:

The Committee recommends that the New South Wales Ageing and Disability Department assess the need for alternative supported accommodation options resulting from increased demand on State services arising from the implementation of the Commonwealth's changes to aged care. The Committee further recommends that the Minister for Community Services negotiate with the Commonwealth to increase funding for supported accommodation projects.

