BACKGROUND DOCUMENT 4
Royal Commission into Aged Care Quality and Safety

Fair Work Act 2009
s.158—Application to vary or revoke a modern award

Aged Care Award 2010
(AM2020/99)

Nurses Award 2020
(AM2021/63)

Social, Community, Home Care and Disability Services Industry Award 2010
(AM2021/65)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT ASBURY
COMMISSIONER O'NEILL

MELBOURNE, 20 JUNE 2022

This document has been prepared to facilitate proceedings and does not purport to be a comprehensive discussion of the submissions made; nor does it represent the concluded view of the Commission on any issue.

1. Introduction

[1] The Royal Commission into Aged Care Quality and Safety was established on 8 October 2018 by the Governor-General (the Royal Commission). It was set up to examine the quality of aged care services and whether those services are meeting the needs of the Australian community.[1]

[2] Submissions were received from the public in response to the Royal Commission's Terms of Reference.[2] Hearings and workshops were conducted in all capital cities and some

[1] Aged Care Royal Commission Letters Patent. 6 December 2018.

[2] Aged Care Royal Commission Terms of Reference, 6 December 2018.

regional locations. The Commissioners delivered an interim report on 31 October 2019,[3] a special report on COVID-19 and aged care on 1 October 2020[4] and a final report on 26 February 2021[5] (collectively referred to as the Royal Commission reports). *Final Report: Care, Dignity and Respect* (Final Report) was tabled in Parliament on 1 March 2021. In the final report, the Commissioners called for fundamental reform of the aged care system and made 148 wide-ranging recommendations.[6]

[3] Relevantly, recommendation 84 of the Final Report , is as follows:

> Recommendation 84: Increases in award wages
>
> Employee organisations entitled to represent the industrial interests of aged care employees covered by the *Aged Care Award 2010*, the *Social, Community, Home Care and Disability Services Industry Award 2010* and *the Nurses Award 2010* should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to:
>
> a. reflect the work value of aged care employees in accordance with section 158 of the *Fair Work Act 2009* (Cth), and/or
>
> b. seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the *Fair Work Act 2009* (Cth).[7]

[4] Three applications ((AM2020/99,[8] AM2021/63[9] and AM2021/65[10]) to vary minimum wages and classifications in the aged care sector are before the Full Bench. The applications relate to the following awards:

- *the Aged Care Award 2010 (Aged Care Award)*
- *the Nurses Award 2020 (Nurses Award)*
- *the Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award).*

[5] This background document sets out links and extracts from the submissions, witness evidence and the Research Reference List that are relevant to the findings and recommendations of the Royal Commission reports.

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[3] Royal Commission into Aged Care Quality and Safety (2019), *Interim Report: Neglect*, Australian Government, 31 October 2019.

[4] Royal Commission into Aged Care Quality and Safety (2020), *Aged Care and COVID-19: A Special Report*, Australian Government, 1 October 2020.

[5] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March 2021.

[6] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March, Volume 1 pp. 205-312.

[7] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March p. 263.

[8] Application by the Health Services Union to vary the *Aged Care Award 2010* dated 12 November 2020 (AM2020/99).

[9] Application by the Australian Nursing and Midwifery Federation to vary the *Nurses Award 2010* and *Aged Care Award 2010* dated 17 May 2021 (AM2021/63).

[10] Application by the Health Services Union to vary the *Social, Community, Home Care and Disability Services Industry Award 2010* dated 31 May 2021 (AM2021/65).

2. Submissions

2.1 Australian Nursing and Midwifery Federation (ANMF)

[6] ANMF Submission, 1 April 2021 *(*re Aged Care)

'6. The ANMF is an employee organisation that is entitled to represent the industrial interests of aged care employees covered by the Aged Care Award 2010 and the Nurses Award 2010. In accordance with the Royal Commission's recommendation, the ANMF is seeking to collaborate with the Australian Government and employers, with a view to applying to vary the wage rates in those awards. The ANMF wrote to the then Acting Minister for Industrial Relations (copied to the Minister for Health and Aged Care and the Minister for Senior Australians and Aged Care Services) and the Aged Care Workforce Industry Council in that regard.

8. On 25 March 2021, the Australian Government Solicitor on behalf of the Commonwealth sent a letter to the FWC in which it referred to Recommendation 145 of the Royal Commission as follows:

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

The Commonwealth stated, "Consistent with this recommendation, the Australian Government will announce its response to the recommendations of the Final Report on or before 31 May 2021." Presently, it is unclear whether or not the Commonwealth proposes to file any evidence or submissions in relation to the HSU's application.

9. The employee organisations, employers and the Australian Government have not had the opportunity to collaborate with each other on the basis of the Royal Commission's recommendation. The ANMF submits that the prospect of any agreed position involving unions, employers and the principal funder, the Australian Government, that could be presented to the FWC in the manner contemplated by the Royal Commission ought to be considered.

10. As noted above, in November and December 2020, the HSU made multiple representations that the proceedings of the Royal Commission into Aged Care Quality and Safety were relevant to its proposed variations to the Aged Care Award 2010. However, it now says that its application is not brought "to give effect to a Royal Commission recommendation" (see the letter from the solicitors for the HSU to the FWC dated 26 March 2021 at [6]). The FWC has observed that "[t]he HSU has made it clear that their application is not predicated on the Royal Commission report" (see transcript of proceedings dated 26 March 2021 at PN57, and see also PN47 and PN69).

11. The Royal Commission into Aged Care Quality and Safety:

(a) was conducted over a period of more than 2 years and 4 months;
(b) received a total of 10,574 public submissions
(c) heard evidence from over 600 witnesses across 99 hearing days;
(d) hosted over 2,400 attendees across 12 community forums;
(e) conducted 13 roundtable consultations with subject matter experts;
(f) visited 34 aged care service providers across 7 States and Territories.

The product of these proceedings is the final report that was tabled in Parliament on 1 March 2021 (see Volume 1 for a summary of the proceedings outlined above). After all of the above, it is remarkable that an application to vary the Aged Care Award 2010 would be pressed in a manner that is inconsistent with the express recommendation of the Royal Commission.

12. The ANMF agrees that the current wage rates in the Aged Care Award 2010 do not recognise the nature of work, the level of skill and responsibility involved in performing the work or the conditions under which work is performed by employees covered by that award. Likewise, the current wage rates in the Nurses Award 2010 do not recognise the nature of work, the level of skill and responsibility involved in performing the work or the conditions under which work is performed by employees covered by that award.

13. The ANMF accepts the recommendation of the Royal Commission to address this and proposes to act in a manner that allows for that recommendation to be implemented. The ANMF adopts this approach on the basis that it is in the best interests of employees covered by the Aged Care Award 2010 and the Nurses Award 2010. In circumstances where the parties have not had the opportunity to collaborate with each other on the basis of the Royal Commission's recommendation, the ANMF rejects any prejudicial conclusion to the effect that the Royal Commission "may have been a touch optimistic" (see transcript of proceedings dated 26 March 2021 at PN28) in its report.

14. Subject to any collaboration with the Australian Government, employers and other employee organisations, the ANMF proposes to make an application under section 158 of the Act in respect of the Aged Care Award 2010, predicated on the Royal Commission's report, by 17 May 2021.

15. Further, the Royal Commission's recommendation was not confined to the Aged Care Award 2010. Subject to any collaboration with the Australian Government, employers and other employee organisations, the ANMF proposes to make an application under section 158 of the Act in respect of the Nurses Award 2010 by 17 May 2021. The United Workers Union ("UWU") has indicated that it proposes to make an application to vary the Social, Community, Home Care and Disability Services Industry Award 2010 by the same date (see the letter from the UWU to the FWC dated 24 March 2021).'

[7] Submission, 29 October 2021

'86. Consistent with the shift to "person entered care" ANMF witnesses will also describe changes to the nature of their work relating to the reduced use of physical restraint and medications, especially in the years since the interim report of the Royal Commission. Again, whilst supportive of the philosophy behind this change, witnesses will identify that giving effect to this change requires greater resources. For example, witnesses will say that non-medical interventions take additional staff time and skill. Allowing a resident to wander can present a risk to them and others, requiring additional supervision.

124. The Australian Government has accepted the vast majority of the recommendations made by the Royal Commission, including Recommendation 85 which is targeted at improved remuneration for aged-care workers.86 125. In this context, the Interim and Final Reports are highly likely to be probative of matters in issue in this application, and to assist the FWC. They are more or less contemporaneous. They are highly likely to be reliable. They are the product of the application of resources on a scale that, frankly, is beyond the capacity of any employee organisation. The FWC ought not to close its eyes to a resource of this usefulness. It need not—

it has, on many occasions in the past, admitted reports of this kind.[11] (footnote copied from submission)

Findings as to funding

131. On 23 July 2021, the Commonwealth via the Australian Government Solicitor provided information and data requested by the ANMF and the HSU and appended to the directions of the FWC on 1 July 2021.

132. The following matters are apparent from Table 2 of the data provided:

> (1) Commonwealth funding is 100 per cent (plus or minus a few percentage points) of labour costs, in all sectors except Government-operated facilities (where it is around 66 per cent, plus or minus a few percentage points) (Table 1 shows the same thing);
>
> (2) Labour costs are about 65–75 per cent (depending on year and sector) of total costs (Table 1 shows the same thing);
>
> (3) Commonwealth funding approaches 70 per cent of revenue in all sectors (except Government-operated facilities) and all years, whereas for Governmentoperated facilities it is around 50 per cent.

133. This reflects findings made by the Royal Commission. For example, at [FR.3B.643] the Royal Commission found that "wages and wage growth are easily the most significant drivers of input costs for approved providers of residential care," making up something like 80 or 90 per cent. About two-thirds of wage costs go to AINs/PCWs; around one-third to nurses.

134. There can be little doubt, in this light, that Commonwealth funding to the aged-care sector is significant to, if not determinative of, matters such as the profitability of aged-care providers, and their capacity or willingness to pay wages at a particular level to their employees. The near-identity between Commonwealth funding and the cost of labour (one is more or less 100 per cent of the other, plus or minus a few percentage points) is striking in this regard. As the Royal Commission found ([FR.2.214]), "the way the Australian Government funds the aged care sector directly impacts on how employers can negotiate pay and conditions."

135. It is in this context that findings about funding made by the Royal Commission are relevant.

136. At [FR.2.188], the Royal Commission found that "[f]unding for aged care is insufficient, insecure and subject to the fiscal priorities and wide-ranging responsibilities of the Australian Government." The Royal Commission continued:

> "For several decades, one of the priorities for governments dealing with the aged care system has been to restrain the growth in aged care expenditure. This priority has been pursued irrespective of the level of need, and without sufficient regard to whether the funding is adequate to deliver quality care. This has occurred through limiting expenditure without accounting for the actual cost of delivering services, rationing access to services, and neglecting reform of the funding model."

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[11] Footnote 87 of submission: See, e.g., *4 yearly review of modern awards—Penalty rates* [2016] FWCFB 965 at [18] (Ross P, Catanzariti VP, Asbury DP, Hampton C, Lee C), citing *Equal Remuneration Test Case Decision* [2011] FWAFB 2700 at [225]; *Re IEU* [2014] FWC 7838 at [41], [42]; *Re SDA* [2014] FWCFB 1846 at [163]-[164]; *Annual Wage Review 2012-2013* [2013] FWCFB 4000 at footnotes 111, 143, 144; *Redundancy Test Case Decision* [2004] AIRC 287; (2004) 129 IR 155 at [223]–[224].

137. Where there is such a direct relationship between funding and wages as outlined above, a diminishment in funding will all but necessarily depress wage growth. This is a matter that informs the inefficacy of enterprise bargaining in the aged-care sector, and underlines the importance of the award rate.

Findings as to conditions of aged-care work and trends in relation to the same

138. The Royal Commission made findings in relation to trends in aged care that reflect the evidence of the ANMF's witnesses.

139. Certain of the ANMF's witnesses will say that there is an ageing population, and that people are staying in home care for longer than used to be the case, so that the average age of the residents of residential aged care is higher (which informs the acuity of their situations). This evidence is reflected in findings made:

> (1) at [Interim Report (IR)1.45]: the early 2000s saw a "renewed focus by all levels of government on home and community care," there was an "increasing demand for homebased services," and all this in the context of a "growing proportion of the population aged over 65 years";
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> (2) at [IR.1.94]: the ageing population will "cause the number of people in the above 65 years bracket—people who consume aged care—to increase";
>
> (3) [Final Report (FR) 3B.801] and [FR.3B.805] show projections of the number of residential care recipients, and the costs of such care, increasing steadily to 2049 (see also [FR.3A.374–375] and [FR.3A.377]);
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> (4) at [IR.1.96]: the number of people aged 70 year and over is expected to triple over the next forty years.
>
> (5) at [IR.1.217], a reference to the increasing likelihood in aged persons of chronic health conditions including, "cardiovascular disease, arthritis, brittle bones …, macular degeneration, and hearing loss," as well as an "increase in neurological conditions that affect thinking, behaviour, motor and sensory function, mobility, and balance."

140. Certain of the ANMF's witnesses will say that residential aged care is understaffed (and more so than used to be the case). At [IR.1.65] the Royal Commission records that one of the most-common complaints made to the Aged Care Quality and Safety Commission was in relation to "personnel numbers/ratio." And, at [IR.1.68], the Royal Commission observed that one of the problems that has "continue[d] to plague the system" is a "serious current and projected shortages of nursing and personal care workers."

141. ANMF witnesses will refer to a greater number and proportion of residents with dementia. This evidence is reflected in findings made:

> (1) at [IR.1.85]: the Royal Commission referred to an increased incidence of dementia in older ages, increasing the need for disability support;
>
> (2) in figure 3.1 on [IR.1.86], showing an estimate of Australians with dementia having increased markedly between 2010 and the present day, and continuing to increase through to 2030;
>
> (3) at [FR.3A.104]: the number of older people living with dementia is expected to increase in line with ageing population, and that in 2019 just over half of the people living in permanent residential aged care, but it could be as high as 70 per cent.

142. There are also findings as to the prevalence of mental health conditions in aged care, including that up to 50 per cent of older people in residential aged care have symptoms of depression and anxiety ([FR.2.103]).

143. ANMF witnesses will refer to being assaulted, and dealing with residents assaulting one another, in the workplace. References to the prevalence of assaults between residents, and by residents against aged-care workers, appear at [FR.3B.522]. [IR.1.6] refers to a "major quality and safety issue[]" being "a high incidence of assaults by staff on residents and by residents on other residents and on staff."

144. ANMF witnesses will say that the number and proportion of obese residents has grown. At [IR.1.92], the Royal Commission found that "obesity rates have continued to rise," and that in June 2019 it was found that "two-third of Australian adults were overweight or obese." This increases "risks of high blood pressure and diabetes, which contribute to cardiac and kidney disease." It also leads to mobility decreasing, and difficulty in preforming routine tasks. Of course, all of these matters increase the workload of aged-care workers.

Findings as to wages and conditions of aged-care work

145. A fair and powerful summary of the conditions of aged-care work appears at [IR.1.8-9] (see also [FR.2.213]):

> "We have heard about an aged care workforce under pressure. Intense, task driven regimes govern the lives of both those receiving care and those delivering it. While there are exceptions, most nurses, carer workers and allied health practitioners delivering care are doing their best in extremely trying circumstances where there are constraints on their time and on the resources available to them. This has been vividly described by the former and current aged care staff who have given evidence.
>
> The aged care sector suffers from severe difficulties in recruiting and retaining staff. Workloads are heavy. Pay and conditions are poor, signalling that working in aged care is not a valued occupation. Innovation is stymied. Education and training are patchy and there is no defined career path for staff. Leadership is lacking. Major change is necessary to deliver the certainty and working environment that staff need to deliver great quality care."

146. Staff who are "succeeding" within this context are doing so "due to their own passion and dedication," where the aged care system "provides no incentive or encouragement for these achievements" ([IR.1.9]). At [IR.1.229], the Royal Commission found that, "an intrinsic interest in caring for older people is a common motivator for many people working in aged care," but that many workers see it as a stepping stone to the acute health sector.

147. It is not surprising, the Royal Commission found, that "staff leave the sector because of dissatisfaction with remuneration, income insecurity, and excessive and stressful work demands." This is in circumstances where—as ANMF witnesses will also attest—nurses and AINs/PCWs in the aged-care sector earn 10 or 15 per cent less than their colleagues in other sectors (including acute health) ([IR.1.229], see also [FR.1.128]).

148. These findings reflect the evidence of ANMF witnesses, many of whom will say that they work in aged-care not because of the pay (which is dismal) but because of their passion for the work. Pay that accurately matched work value of particular work would attract more than just those persons who are intrinsically drawn to that work. Instead, including (the ANMF will submit) due to the paucity of pay, "[d]ifficulties arise in identifying, recruiting, training and retaining suitable skilled staff" ([IR.1.186])

149. A similar finding appears at [IR.1.218], noting also the estimated need for the aged care workforce to double by 2050 in order to accommodate the need for aged care services. More reference to difficulties in attraction and retention appears at [IR.1.221]. Not at all surprisingly, the Royal Commission received evidence that lifting wages to acute sector levels assisted in attracting more staff ([FR.2.214]).

150. ANMF witnesses will give evidence that echoes the findings of the Royal Commission at [IR.1.230], including that "aged care workers often experience excessive work demands and time pressure to deliver care." For care workers, "inadequate staffing levels mean that they are overworked, rushed and generally under pressure."

151. At [FR.1.40], the Royal Commission observed that, "[a]ged care is a worthy profession, and it needs to be appreciated as the key means to keep the aged care system safe and of high quality." Evidence from ANMF witnesses will be that they do not feel appreciated (except, in some cases, by their colleagues and aged-care residents themselves). Their work is not respected. This is in part because low wages cause society (wrongly) to regard aged-care as a low-status occupation ([FR.2.214], see also [FR.1.125]).

152. "The staff in aged care are poorly paid for their difficult and important work" ([FR.1.124]). There is a gap between their wages and the wages paid to colleagues in acute health ([IR.1.229], see also [FR.1.128]). Successive governments have made several failed attempts to address that gap by providing funds to providers in the hope they would be passed on to workers by way of increased wages, but they were not passed on ([FR.1.128], see also [FR.3A.414]). An Aged Care Workforce Strategy Taskforce recommended that "industry develop a strategy to support the transition of personal care workers and nurses to pay rates that better reflect their value and contribution to delivering care outcomes," but this did not work either ([FR.3A.414]).

153. Aged care is understaffed and the workforce underpaid ([FR.2.211]). These are not new issues ([FR.2.211]). After the removal of an obligation to spend a particular proportion of funding on direct-care staffing, many aged-care providers contain labour costs by replacing nurses with AINs/PCWs ([FR.2.211])—the result of which, as appears from ANMF witnesses' evidence, is that fewer nurses are carrying the burden of nurse's work between them, and AINs/PCWs are performing work that would formerly have been performed by nurses (increasing the value of all of their work).

154. As stated at the outset of these submissions, so significant was this problem seen to be that it was the subject of two recommendations. The Royal Commission opined that in its view, "the Australian Government, providers and unions must work together to improve pay for aged care workers" ([FR.1.128]). Elsewhere, it said that "the Australian Government and providers have a responsibility to lift the employment conditions and the status of aged care workers," rather than relying on the commitment and goodwill of workers to build the aged care workforce ([FR.2.214]).

155. While of course whether there exist work value reasons justifying an increase in the award rates payable to aged care workers is the ultimate issue for the FWC, were it to accept that such an increase were justified it would not be alone. At [FR.3A.371], the Royal Commission opined, based on the "extensive evidence before [it] about the work performed by personal care workers and nurses in both home care and residential care, … all three of the section 157(2A) reasons may well justify an across-the-board increase in the minimum pay rates under the applicable awards" ([FR.3A.416])'

[8] ANMF Submission in reply, 21 April 2021

'5. By its own terms, the Consensus Statement "reflects the matters over which the parties have reached agreement…" (CS, page 1). It was made pursuant to recommendation 76(2)(e) of the Royal Commission into Aged Care, Quality and Safety in express contemplation of this proceeding. The parties to the Consensus Statement represent a broad cross-section of interests. The Commission would give very considerable weight to its content. Its content is supportive of the ANMF's application (and the other applications). Further, many of the points of consensus are also the subject of agreement by other employers who were not parties to the Consensus Statement (as outlined below).

68. [IN relation to award coverage and structure], it would (the ANMF submits) be an inappropriate exercise of power to decline to order an increase in the minimum wage for some employees, only because it is possible to point to other employees who could have been, but were not, the subject of the relevant application. It is not necessary for all wage undervaluations to be fixed at once, in the one application.

69. In a perfect world, applications would cover all deserving employees at the one time. But the current ANMF application is made in a particular context, i.e., as a response to a Royal Commission recommendation in regard to aged care employees in particular.'

2.2 Aged & Community Services Australia, Leading Age Services Australia and Australian Business Industrial (collectively the Joint Employers)

[9] Joint Employers Submission, 4 March 2022

'3.2 The aged care sector in the main acknowledges and accepts the Royal Commission findings and recommendations in relation to its workforce, including that workers are not competitively paid by comparison to similar roles in other sectors of the economy and for other sectors that compete with aged care for labour. This has led to a labour supply challenge in the aged care sector.

11.3 The following observations of the demographic were made in the Royal Commission: (a) increasing frailty; (b) longer life span; and (c) increased prevalence of dementia.'

2.3 Chamber of Commerce and Industry of Western Australia (CCIWA)

[10] CCIWA Submission, 4 March 2022:

'3. …[A]n application to vary the award rates of pay is not the only mechanism available to increase wages in the sector. A key limitation to providing higher rates of pay arises out of the Commonwealth funding of the aged care sector. In particular, we note recommendation 85 of the Final Report of the Royal Commission into Aged Care Quality and Safety which identifies that:

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

4. This recommendation has been accepted by the Commonwealth Government and provides a mechanism for increases to funding to accommodate increased wages and/or entitlements for employees that can be negotiated through enterprise bargaining, or otherwise passed onto relevant employees through the relevant funding arrangements.

5. This approach would allow for the granting of wage increases above that which may be justified via the work value reasons prescribed by s157(2) of the Fair Work Act 2009 (Cth) (FW Act).

6. Consequently, CCIWA does not support the applications in their current form on the basis that:

> 6.1. The Applicants have not provided the required evidence to support a variation to the relevant awards under s157(2) of the FW Act;
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> 6.2. The proposed increase is not supported by the modern award objectives;
>
> 6.3. The Applicants have failed to discharge their evidentiary burden and consequently there is insufficient information before the Commission to support the claim; and
>
> 6.4. The Applications fail to establish a connection between the basis of the claim and the quantum of the increase being sought.'

2.4 Health Services Union (HSU)

[11] HSU Submission, 1 April 2021 (re Aged Care):

'9. The HSU is in the unusual position of having subsequently been congratulated for taking this step by a Royal Commission into the industry. The HSU adopts the findings set out in the *Final Report of the Royal Commission into Aged Care Quality and Safety*, namely that:

> a. quality aged care involves skilled work, and aged care workers play a critical role in its delivery;
> b. a wages gap exists between aged care workers and comparable workers in other sectors;
> c. attempts to address this via providing additional funding to private operators have failed, and an industry led process is unlikely to succeed; and
> d. pay for aged care workers should be substantially increased.
> …

19. The Royal Commission has, in its final report, recommended further amendments to the Aged Care Act 1997 (Cth) requiring the ACQSC to expressly reflect high quality care in its standard setting. [Report, recommendation 13.] Although this is the focus of the present Standards, it seems likely that further regulatory intensification will follow implementation of the recommendations of the Royal Commission.'

[12] HSU Outline of submissions, 29 October 2021 (re SCHADS)

'5. The application is consistent with Recommendation 84 of the Royal Commission into Aged Care Quality and Safety, namely:

> Recommendation 84:
>
> Increases in award wages Employee organisations entitled to represent the industrial interests of aged care employees covered by the *Aged Care Award 2010, the Social, Community, Home Care and Disability Services Industry Award 2010* and the *Nurses Award 2010* should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to:

a. reflect the work value of aged care employees in accordance with section 158 of the Fair Work Act 2009 (Cth), and/or

b. seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the Fair Work Act 2009 (Cth).

…

9. The HSU adopts the findings set out in the Final Report of the Royal Commission into Aged Care Quality and Safety, namely that:

a. quality aged care involves skilled work, and aged care workers, including home care workers, play a critical role in its delivery;
b. a wages gap exists between aged care workers, including home care workers, and comparable workers in other sectors;
c. attempts to address this via providing additional funding to private operators have failed, and an industry led process is unlikely to succeed; and
d. pay for aged care workers, including home care workers, should be substantially increased.

28. The Royal Commission has, in its final report, recommended further amendments to the Aged Care Act 1997 (Cth) requiring the ACQSC to expressly reflect high-quality care in its standard setting. Although this is the focus of the present Standards, it seems likely that further regulatory intensification will follow implementation of the recommendations of the Royal Commission. Any such regulatory intensification would likely have application to home care.'

[13] HSU Submission in reply, 21 April 2022

N/A.

2.5 IRT Group

[14] Submission, 4 March 2022

'16. Employees have also endured significant negative media coverage about the sector in recent years, associated with the Aged Care Royal Commission and the COVID-19 pandemic. This negative community sentiment has contributed to employees' feeling of being unappreciated and undervalued

17. Staff shortages in the sector are also having an impact on existing employees. After 2 years of COVID-19, they are exhausted and disheartened.

18. There is also an additional financial impact on already struggling providers, having to pay overtime rates and agency costs to cover shifts.

19. These challenges will only be exacerbated when the daily minimum direct care and nursing minutes recommended by the Aged Care Royal Commission are implemented.'

2.6 Queensland Government

[15] Submission, 11 April 2022

'I note the range of evidence that supports claims of significant and widespread undervaluation of work in the aged care industry, as identified in the unions' outline of submissions. Most significantly, this includes the finding of the Royal Commission into Aged Care Quality and Safety (the Royal Commission) that a wage gap exists between aged care workers and workers performing equivalent work in other sectors, and that the provision of additional funding to aged care providers has not improved pay and conditions for providers' employees.

The Queensland Government notes recommendations 76(2)(e) and 84 of the Royal Commission. In combination, these recommend that the Australian Government work in conjunction with representatives of both employees and employers in the industry to ensure that the Awards accurately reflect the value of aged care work, and provide for equal remuneration for work of equal or comparable value. This reflects the long-standing policy of the Queensland Government that workers' remuneration should reflect the social and economic value of their work, and not be influenced by long-discredited assumptions based on gender.

I also note the drafting of a consensus statement on 17 December 2021 between the three unions and representatives of employers in the aged care industry. The parties to the consensus agreement agreed that wages in the aged care industry have been historically undervalued and that a significant wage increase is necessary to accurately reflect the value of the work performed by the aged care workforce. Following the findings and recommendations of the Royal Commission, the significance of both worker and employer representatives reaching an agreed position on necessary wage increases across the industry cannot be overstated.

The Queensland Government considers it unfortunate that contrary to the recommendations of the Royal Commission, the Australian Government has chosen to play no part in the deliberations.

The Queensland Government is conscious that the applications to vary the Awards differ in their particulars, and has no desire to favour any one application over another, or to seek to join the matter. However, I lend my support generally to the position that the prescribed wage rates in the AC Award, Nurses Award and SCHADS Award should be increased, and such other variations be made as are necessary to give effect to the recommendations of the Royal Commission.'[12]

2.7 State of Victoria

[16] Submission, 11 April 2022

'38. The Victorian Government broadly supports all recommendations made by the Final Report of the Royal Commission into Aged Care Quality and Safety (Royal Commission) and notes the importance of the Commonwealth, as the primary funder and regulator of aged care in Australia, to adequately fund appropriate wage increases to support the attraction and retention of a skilled aged care workforce. In particular:

> (a) recommendation 84 of the Final Report, which recommended that employee organisations collaborate with the Commonwealth Government and employers to apply to vary wage rates to the Aged Care Award 2010 (Aged Care Award), the Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award) and the Nurses Award 2010 (Nurses Award) to reflect the work value of aged care employees and seek to ensure equal renumeration for equal or comparable value for men and women; and

[12] Queensland Government submission dated 11 April 2022 pp. 1-2.

(b) recommendation 85, which recommended that, in setting prices for aged care, the pricing authority take into account the need to deliver high quality and safe care, and the need to attract sufficient staff with the appropriate skills to the sector, noting that the relative renumeration levels are an important driver of employment choice.

39. The Victorian Government is therefore supportive of an appropriate increase (or series of increases) to minimum award wages in the aged care sector as contemplated by the Final Report of the Royal Commission, appropriately funded by the Commonwealth.

46. … [T] he implementation by the Commonwealth of other Royal Commission recommendations can be anticipated to increase expectations on the personal care workforce. These include a national registration scheme (recommendation 77); mandatory minimum qualifications for personal care workers (recommendation 78); dementia and palliative care training (recommendation 80), and ongoing professional development requirements (recommendation 81).

49. The Final Report of the Royal Commission acknowledged that an effective increase in wages across the aged care sector could not be confined to an increase to minimum wages under the Aged Care Award, being an award that only applies to the residential aged care sector and not, for example, home aged care workers. Recommendation 84 specifically contemplated applications to increase minimum wages under the Aged Care Award, the Nurses Award and the SCHADS Award (Relevant Awards). 50. While the proceedings necessarily have an aged care focus, the practical impact will be felt across other sectors, including a potential for the outcome of the proceedings to impact classification and role relativities within occupations and across sectors other than aged care.'

2.8 Uniting Care Australia

[17] Submission, 4 March 2022

'Aged care work has also increased in complexity given the dementia epidemic and the need for more specialist psycho-geriatric care. This in turn has shifted the sector's understanding of what constitutes safe and high quality care. The changes to legislative and policy settings mean this trend will continue, particularly given the Royal Commission's recommendation to include a statutory, non-delegable duty of care. The additional expectations of workers in the sector are reflected in the Aged Care Quality Standards as contained in the Quality of Care Principles 2014, which require increasing levels of technical and social support competencies.'[13]

2.9 United Workers' Union (UWU)

[18] UWU Outline of submission, 1 April 2021 (re Aged Care Award)

'7. In their correspondence, and in the ANMF submissions, ANMF also refer to recommendations made by the Royal Commission into Aged Care Quality and Safety (the Royal Commission). The Royal Commission made a range of findings and recommendations relevant to this application, including:

(a) That a wages gap exists between aged care workers and workers performing equivalent functions in the acute health sector;

(b) That "providers, unions and the Australian Government must work together to improve pay for aged care workers";

[13] Uniting Care Australia submission dated 4 March 2022 p. 2.

(c) That the Aged Care Application presently before FWC should not be confined to the Aged Care Award, but should encompass Awards covering aged care workers in nursing and home care;

(d) That the chances of success of such an application are significantly increased if FWC is presented with an agreed position involving unions, employers and the principal funder, the Australian Government; and

(e) That the reconstituted Aged Care Workforce Council will be well placed to encourage this cooperative approach.

8. In their correspondence and in their submissions, ANMF confirms it has written to the Chief Executive Officer of the Aged Care Workforce Council, requesting that it convene urgent collaboration between employers, Unions and the Australian Government in line the recommendation of the Royal Commission. UWU confirms it has sent similar correspondence to the Aged Care Workforce Council and is optimistic these discussions will ensue in April 2021.

9. In the ANMF submissions, ANMF also indicates that "subject to any collaboration with the Australian Government, employers and other employee organisations, the ANMF proposes to make an application under section 158 of the Act in respect of the Aged Care Award 2010, predicated on the Royal Commission's report, by 17 May 2021.

29. … The recent Final Report of the Royal Commission found:

"With the increase in the availability of support in the community, the average frailty of people receiving permanent residential aged care has increased significantly in recent years. Since 2009, the proportion of people with high care needs has generally increased in each care domain under the Aged Care Funding Instrument. The biggest overall change was in complex health care, which rose from 13% in 2009 to 61% in 2016, and then fell to 52% in 2019. This fall followed changes to the rating method for complex health care that applied from January 2017. In 2019, some 31% of permanent residents were classified as having the highest care needs in all three care domains: activities of daily living, cognition and behaviour, and complex health care. Some 85% of all permanent residents were classified as having the highest care needs in at least one of the three care domains."[14]'

[19] UWU Outline of submission, 29 October 2021 (re SCHADS Award)

'4. On 1 March 2021 the Royal Commission into Aged Care Quality and Safety tabled its final report, including a range of recommendations relevant to this application, including:

(a) That a wages gap exists between aged care workers and workers performing equivalent functions in the acute health sector.

(b) That "providers, unions and the Australian Government must work together to improve pay for aged care workers".

[14] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March 2021, Volume 2 p. 22.

(c) That the Aged Care Application presently before FWC should not be confined to the Aged Care Award, but should encompass Awards covering aged care workers in nursing and home care.

(d) That the reconstituted Aged Care Workforce Council will be well placed to encourage a cooperative approach between stakeholders.'

2.10 Stakeholders from the Aged Care Sector

[20] Submission – agreed position, 17 December 2021

'ACWIC convened these meetings in response to the recommendations of the Royal Commission into Aged Care, Quality and Safety. Recommendation 76 (2) (e) recommended that:

(2) By 30 June 2022, the Aged Care Workforce Industry Council Limited should:

…

(e) lead the Australian Government and the aged care sector to a consensus to support applications to the Fair Work Commission to improve wages based on work value and/or equal remuneration, which may include redefining job classifications and job grades in the relevant awards.'

3. Witness statements

3.1 Joint Employers

[21] Joint Employers Index of Statements and Evidence, 4 March 2022

[22] Joint Employers Statement of Anna-Maria Wade, 4 March 2022

'32. The majority of providers in the ACS are not for profit, community or charity run. Set out in Annexure AM-05 at page 39 is the Aged Care Royal Report is a table that identifies that 1006 providers out of 1458 are not for profit.

33. The Federal Government is the main funder of aged care with the ACS largely relying on the funding provided in order to operate. Annexure AM-05 at page 41 confirms that the Australian Government subsidies the majority of care services.'

3.2 Australian Nursing and Midwifery Federation

[23] ANMF Statement of Nicholas White, 21 April 2022

'2. On 21 April 2022, I visited the website of Anthony Albanese, Leader of the Opposition, and retrieved a copy of his Budget Reply speech on 31 March 2022. Annexed and marked 'NCW 1' is a copy of that speech (Anthony Albanese, Budget Reply 2022 (31 March 2022) <https://anthonyalbanese.com.au/media-centre/budget-reply-2022>).

3. On 21 April 2022, I visited the website of the Treasury of the Commonwealth <https://ministers.treasury.gov.au> and retrieved a transcript of a television interview with Josh Frydenberg, Treasurer of the Commonwealth, on 3 April 2022. Annexed and marked 'NCW 2' is a copy of that transcript (ABC, Interview with Josh Frydenberg, Insiders, 3 April 2022).'

From NC1:

> The global pandemic and a Royal Commission have confirmed what so many Australians already knew – our aged care system is in crisis. …
>
> Even an Interim Royal Commission Report – with the searing title "Neglect" – wasn't enough to spur them into action. …
>
> We will mandate that every Australian living in aged care receives a minimum of 215 minutes of care per day, as recommended by the Royal Commission. …
>
> The interim Royal Commission report found that over half of aged care residents were not getting enough nutrition. They are literally starving.

From NC2:

> DAVID SPEERS:
> Well, what about the Coalition? How much would you fund as an increase?
>
> JOSH FRYDENBERG:
> So firstly, we've taken aged care funding from $13 billion to $30 billion, a massive increase. We commissioned the Royal Commission, and it was 148 recommendations and a five year plan and I announced $17.7 billion dollars in last year's Budget across home care, across residential care…
>
> DAVID SPEERS:
> The question is about how you'll pay for the pay rise?
>
> JOSH FRYDENBERG:
> What we've said is we respect the independent umpire. The independent umpire is the Fair Work Commission and then with respect to the private sector, David, what we have now is an independent pricing authority that takes into account the input costs, and then makes the subsidies increase accordingly. So we will respect the decision of the Fair Work Commission. But when…"

[24] Statement of Robert Bonner, 29 October 2021

> '21. I was also one of a small number of ANMF staff nationally who prepared submissions and give evidence to the Aged Care Royal Commission. My evidence in that case included expert opinion on workforce and training as well as staffing levels and skills mix in aged care, the staffing levels and skills mix research project that I co-ordinated for the Federation and my professional experience through employment of the changes in the aged care sector.
>
> 42. In the lead up to the Aged Care Royal Commission the ANMF asked its members in aged care for their view on the wages, conditions and other factors that influence their working lives. The surveys were developed by the ANMF research team and approved by Executive Council for distribution. I regularly participate in meetings of the Federal Executive and Federal Council on behalf of the SA Branch particularly in areas affecting aged care given my role federally and at state levels over many years. Where I do not attend, I provide briefings and advice to the Branch Secretary. This was the second survey of aged care members that the ANMF had conducted nationally, with the first being in 20164 . See Annexure RB 4 - National Aged Care Survey 2019.
>
> 50. In 2011 the Productivity Commission Report into Aged Care and subsequently the Aged Care Royal Commission described the increasing needs or acuity of residents in the sector. In

part this is due to the greater provision of services in peoples own homes which results in admission to residential care at a point where there is a more pronounced need. At the same time the proportion of RNs and ENs has declined within the overall workforce and growth in the workforce itself has failed to keep pace with demand, as also discussed further below.

55. As well documented in the extensive number of aged care inquiries from 1980's to today, most recently summarised at the Royal Commission into Aged Care Quality and Safety; the Aged Care sector has changed vastly over the years. My roles at the ANMF and with the industry (which I describe at paragraph [1]-[23] above) have meant that I have led ANMFSA branch participation in many of those enquiries which has developed my knowledge of the sector. The following commentary on the history of the sector is based upon records of ANMFSA and that knowledge.

69. The interim report of the Aged Care Royal Commission raised a number of cases of inappropriate physical and chemical restraints. The Federal Government in response to the interim report made changes to the regulation in this area which materially impacted on practice in the sector. My own experience in the implementation of evidence-based practice in relation to restraint in long term care showed that there was a requirement to implement alternative work practices requiring training and upskilling of staff.

70. Managing clients with consistently demanding behaviours with inadequate resources or training, poor systems of management and leadership has left aged care staff with no alternative but to adopt practices that amount to restraint, either chemical or physical. This is evidenced in the Aged Care Royal Commission Background Paper 4 which provides an overview of restraint use in aged care. Restraining residents is an unacceptable practice, but it is has been used by aged care providers as a mechanism to protect staff and residents and as a time saver for staff already under enormous time pressures. The requirement to eliminate the use of restraint is desirable but it has placed additional call on the knowledge, skills and practice capacity of staff in the facilities.

82. Over time despite the increasing acuity of residents the workforce skill set has diminished. This is as a direct result of the changes to aged care to provide a home like environment for residents. Throughout the Aged Care Royal Commission this change was referred to as a reconceptualisation of the sector.'

[25] Statement of Annie Butler, 29 October 2021

'49. The Australian Government has announced an additional 80,000 home care packages to be provided over the 2021-22 and 2022-23 financial years as part of their response to the Final Report of the Royal Commission into Aged Care Quality and Safety. (AMNF 7)

207. The Honourable Gaetano (Tony) Pagone QC, Chair and Ms Lynelle Briggs AO, Commissioner submitted the Final Report: Care Dignity and Respect, of the Royal Commission into Aged Care Quality and Safety on 26 February 2021. (ANMF 29-36)

208. Commissioner Briggs states in her Overview to the Final Report that 'Like older people, the aged care workforce has been undervalued'.

209. Commissioner Briggs goes on to say:

> 'The community as a whole needs to reflect upon the value of aged care workers and the essential nature of the work they do, and to pay them accordingly. The pay gap between nurses and personal care workers in aged care and in the health system should be addressed through the Pricing Authority initially, then through structured work value cases led by the Government and employers.'

210. The Final Report made recommendations and findings relevant to this application. In the Chapter titled 'The Aged Care Workforce, the Final Report makes findings and recommendations with respect to workforce. The report notes under the heading 'Improving pay for the aged care workforce';

> 'A wages gap exists between aged care workers and workers performing equivalent functions in the acute health sector.'

211. The Final Report notes that despite the recommendations of the Taskforce, aside from annual wage review increases, there have been no discernible increases in aged care wage rates in the two and a half years since the Taskforce report was published.

212. The Final Report recommends applications be made to the Fair Work Commission to vary award wages. The ANMF application in this proceeding is made in response to that recommendation.

213. The aged care sector has been subject to a range of reforms over many years. The pace of reform has accelerated in the last 3-5 years due to implementation of recommendations from the many reviews into aged care in recent years. The findings from the Royal Commission Interim Report: Neglect, (ANMF 37-39) was a catalyst for the introduction of a number of regulatory reforms aimed at improving quality and safety of aged care services.'

[26] Statement of Paul Gilbert, 29 October 2021

'41. In the current round of bargaining, which is just beginning, it is likely that ANMF will struggle to achieve wage increases of even 2.5% per annum. While we recently achieved 2.75% pa with Japara, it was as a 2-year agreement. ANMF is unable to campaign on the ground due to COVID restrictions. Japara agreed to the same rates for high and low care in earlier bargaining rounds. This was despite the increase of funding of $10 per resident per day. Other offers are in the 2% per annum (Homestyle Aged Care) to 2.25% per year range (Mayflower Community). Discussions by ANMF officials with other employer representatives to date are to the effect that few will offer more than a two-year Agreement because of concerns about proposed changes to the funding regime in 2022 and the new Aged Care Act (and minimum mandated staffing levels) in 2023. The disconnect between the Commonwealth's commitment to mandated staffing and skills mix arising from the Aged Care Royal Commission Report but the absence of commitments in respect of funding wages has led to extreme caution in bargaining on the part of employers.

68. The survey results were confirmed by much of the evidence to the Royal Commission into Aged care which reported in February 2021 (see ANMF 29-36). The Royal Commission concluded in their Summary of the Final Report (Volume 1, section 1.2.3 on page 68):

> Over the course of 2019, we heard from many people about substandard care—those who experienced it, family members or loved ones who witnessed it or heard about it, aged care workers, service providers, peak bodies, advocates and experts. We heard about substandard care during hearings and community forums. We also were informed about it in public submissions. Substandard care and abuse pervades the Australian aged care system.

70. The Royal Commission concluded, aged care nurses and carers are overworked, understaffed and undervalued. They found (volume 1 page 75):

> We have found that Australia's aged care system is understaffed and the workforce underpaid and undertrained. Too often there are not enough staff members, particularly nurses, in home and residential aged care. In addition, the mix of staff who provide aged care is not matched to the needs of older people. Aged care workers often lack sufficient skills and training to cater for the needs of older people receiving aged care services. Inadequate staffing levels, skill mix and training are principal causes of substandard care in the current system. The sector has difficulty attracting and retaining well-skilled people due to: low wages and poor employment conditions; lack of investment in staff and, in particular, staff training; limited opportunities to progress or be promoted; and no career pathways. All too often, and despite best intentions, aged care workers simply do not have the requisite time, knowledge, skill and support to deliver high quality care.

These conclusions by the Royal Commission are reflective of the answers to our survey, which was one of a number conducted before and during the Royal Commission hearings. This is the environment in which carers and nurses have been working over the last 20 years. Aged care was never a perfect system, but the dramatic changes I have observed in the last 15 or more years.

72. In May 2021 the Commonwealth responded to The Royal Commission recommendations and the call for mandated minimum care minute standards by agreeing to institute the 200 minutes of care per resident per day by October 2023 (rather than the July 2022 as recommended) in a new Aged Care Act from early 2023. I refer to ANMF 7 - Australian Government response to the final report of the Royal Commission.

73. At the same time, a new funding system is being instituted in 2022 which the Government says will begin to provide funding of the new mandated care minutes from October 2022. Many of the major providers that I and others from the ANMF have been involved talking to as part of the next round of bargaining say that they are fearful, even cynical, that while some changes will be made for the better, it won't be matched by extra funding or funding that is reflective of the real cost of care.

74. My fear is that while things will not become worse, they will not necessarily become a whole lot better either. While there may be some extra nurses and carers provided as a result of the Commonwealth response, based on my experience dealing with providers, I expect that they will continue to run their operations leanly. My experience suggests that most will continue to do the bare minimum with respect to care and remuneration in order to maximise investor returns. The role and responsibility of nurses and carers with respect to issues like dementia, palliative care, bariatric patients, complex care and multiple comorbidities will only become more complex and more stressful. The Commonwealth has stated that they will provide $3.9 billion over four years, or $975m per annum, for additional staffing (to meet the 200 care minutes). However, if this proves to be insufficient to fund their new legislative requirements (the mandated minimum staffing time), then it is likely that the only place to find the shortfall is in lower wage increases and attacks on conditions. In that case the vicious cycle will continue.

77. CEDA make a number of recommendations (pages 21-23) which echo those of the Royal Commission, including that unions, employers and the Federal Government should collaborate to increase award wages in the sector. They conclude that:

> At a bare minimum, wages should be comparable to those in adjacent industries such as health and disability. This would ensure that workers choose a career based on their skills and attraction to the sector, as opposed to the higher salaries of other caring sectors. However, this is unlikely to be enough to attract and retain quality workers. Wages should also rise as workers gain more skills and responsibility. There needs to be clearer paths to career progression, with commensurate increases in pay. Experience

> overseas also suggests that wage increases lead to improved retention, attraction and longer tenure, but must be properly funded and regulated, or they can lead to lower working hours or increased workloads for staff. Increasing wages by 25 per cent would entail significant cost, but as outlined earlier, the enormous challenge to boost retention and attract new staff requires a substantial wage increase. Available analysis suggests a wage rise of 25 per cent for personal-care workers would cost $2.2 billion over four years at current staffing levels.

I agree with the Royal Commission and with CEDA that there needs to be a major boost to wages across the aged care sector to attract and retain staff as well as make it the fulfilling career choice that it once was. Increased wages are part of the matrix of improvements – along with better staffing, career progression, better education and training, more professional management – that is needed to produce a workforce capable of delivering first rate care.

78. The transformation in the nature of the work required in residential aged care is illustrated by the categorisation of residents according to their care needs under the Aged Care Funding Instrument (ACFI). It was summarised in an Aged Care Royal Commission Paper (see ANMF 92 at page 11) as follows:

> "Residents are now clumped towards the top of ACFI categories and most categories are now redundant:
>
> • In 2008, only 3.7% of residents were in the highest category – in 2018 this share is 31.1%.
>
> • In 2008, the eight most expensive categories accounted for 21.1% of residents – in 2018, the eight most expensive categories accounted for 59.7%
>
> • In 2008, the single largest category has 6.4% of residents – in 2018 the single largest category has 31.1% of residents
>
> • In 2008, the largest eight categories accounted for 36.1% of residents – in 2018, the largest eight categories accounted for 70.7% of residents
>
> • In 2008, there were only five tiny categories (with less than 0.1%) of residents - in 2018, 24 out of 64 categories were essentially empty.'

[27] Report of Honorary Associate Professor Anne Junor, 29 October 2021

'204. All Registered and Enrolled Nurses must have followed an Approved Training Pathway (degree- and diploma level, respectively) and be registered through the Nursing and Midwifery Board of Australia. 87% of Assistants in Nursing/Personal Care Workers now have at least a Certificate III in Aged Care or a related field. Formal qualifications are still not mandatory, although the Royal Commission recommended this, and CEDA has also joined those advocating for mandatory qualifications. The CEDA report on the aged care industry endorses the Royal Commission view that qualifications should have a higher component of work placement hours, include short refresher courses for people wishing to return to the industry, and provide for the rollout of online training in dementia and palliative care, linked to recognition and career pathways. The Australian College of Nursing believes that accreditation should be extended to AINs/PCWs.

239. The final report of the Aged Care Royal Commission noted: The aged care workforce is poorly paid for difficult and important work. There are often not enough staff members to provide the care that is necessary to deliver either safe and high quality care or a good quality of life.

240. On the same page, the Report cites a comment from aged care expert, Dr Lisa Trigg:

> To deliver really excellent relationship centred care, care workers have to be more than just respected. They have to be valued and supported.

243. In the same study, PCWs were reported as being paid the equivalent of between $48,000 and $54,000 pa, significantly below the market median, and generally between the bottom 10% and bottom 25% of the Korn Ferry Hay "All Organisations" data set. Yet the Matter of Care Report noted:

> PCWs form the majority of the aged care workforce and are the eyes and ears of the entire aged care system …They require a high level of confidence to deal with new, challenging and unpredictable situations. …PCWs are at the front line, delivering services necessary to ensure their clients have high-quality care that is safe, meets individual needs and supports their quality of life. They are also essential to the reputation of the industry, as they carry out the most visible roles in relationships with families, informal carers, friends and the broader community.

This is a statement of undervaluation — of inappropriate relativities between contribution and reward, across the board, for whole classifications.

280. Additionally, I cited evidence from the Secondary Material of views in the policy and practitioner communities (the Royal Commission, CEDA, the Aged Care Workforce Taskforce, pay consultants Korn Ferry Hay) that remuneration in nursing and care work in aged care is under-valued, with a gap between remuneration levels and job size, skill requirements and demands.'

[28] Statement of Wendy Knights, 29 October 2021

'52. Similarly, there has been a dramatic reduction in anti-psychotic medication after the Aged Care Royal Commission. I understand the concern of the Royal Commission was over medication. That is a valid concern, but it does not apply across the board (does not apply in Princes Court, for example), and under-medication is also problematic.

70. There have also been changes as a result of the Royal Commission with regard to pain relief and restraint medication. While the reduction or elimination of some drugs is welcome, it has also led to changes in behaviours and more difficulty in managing them in an environment where we don't have extra people to manage or monitor those residents.

71. For example, there is one resident who has bolts and plates in his body. The pain caused by these bolts and plates was managed by medication. After the Royal Commission he was on reduced pain mediation, the result of which was that he was in too much pain to sit down, so he would stand and eat, or walk around and eat. That creates a choking hazard.

84. The work is draining. That is why I had to take a break in 2019-2020. All of the changes I've described above, even before the Royal Commission and the change in Aged Care Standards, meant that it is extremely difficult just to complete all the required processes and tasks in a timely and competent manner.

89. My view is that there are now so many regulations concerning pain relief that when it is really needed, it is difficult to get and takes too long. Many of our residents worked physically demanding jobs and have a corresponding need for pain mediation, including strong pain medication. Post-Royal Commission, doctors are more reluctant to write scripts for pain medication. Sometimes scripts run out and we cannot get a replacement for several days, or

until after a weekend. Pain management, and dealing with behaviours caused by unmanaged pain, occupies more time than it used to.

90. Supervision of other staff is now also more complex as the documentation requirements increase and I have to make sure that my reports are doing the right thing. I also have to make sure I have reported up as required, especially where there are incidents, such as falls or choking episodes etc.'

3.3 Health Services Union

[29] Statement of Gerard Hayes, 1 April 2021

'*Royal Commission*

34. The HSU made a submission to the Royal Commission into Aged Care Quality and Safety (Royal Commission). Annexed to this statement and marked GH-2 is a copy of the submission dated 23 October 2019 together with an annexed report.

35. On 26 February 2021, the Royal Commission's Final Report was made public. Recommendation 84 of the Final Report is in the following terms:

> Recommendation 84: Increases in award wages Employee organisations entitled to represent the industrial interests of aged care employees covered by the Aged Care Award 2010, the Social, Community, Home Care and Disability Services Industry Award 2010 and the Nurses Award 2010 should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to: a. reflect the work value of aged care employees in accordance with section 158 of the Fair Work Act 2009 (Cth), and/or b. Seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the Fair Work Act 2009(Cth).

36. The Royal Commission also commended the HSU for filing the application to vary the Aged Care Award that is the subject of these proceedings. Annexed to this statement and marked GH-3 is an excerpt from the Summary of the Royal Commission's Final Report.'

[30] Statement of Susan Kurrle, 26 April 2021

From Report annexed and marked "SK-1":

'My answers to your questions as set out in your letter of 11th February 2021 appear below.

(a) details of the regulation of the aged care system and any changes to the regulation of the aged care system that have occurred over time

The Royal Commission into Aged Care Quality and Safety noted in its Background Paper that the aged care system "is complex and fragmented". From the commencement of the current Aged Care Act 1997 to the present time there have been a number of enquiries and recommendations (see ACRC Background Paper 8) which have added to this complexity for both providers and for the recipients of aged care.

The ACRC Final Report has attempted to address much of this complexity (see ACRC Final Report).

One of the most important changes relevant to the Application is that the Aged Care Act 1997 removed the requirement that aged care providers acquit a portion of their funding for expenditure on care. This gave aged providers the ability to choose how they would staff their residential aged care facilities in terms of numbers of staff and mix of skills amongst staff. There was no requirement for certain levels of staffing or that skilled and trained nursing staff would continue to be employed. It should be noted that the term 'nursing home' was changed to 'aged care home' at around this time.

(h) whether there has been an increase in the frailty of residents and acuity of the needs of residents in residential aged care
(k) If so, please describe the effect of any increased frailty and acuity of residents on the nature of care provided in aged care facilities

Over the past ten years there has been a strong push to manage medically unwell residents within the aged care facility using hospital outreach team models of care. These are multidisciplinary teams with geriatricians, nurses, physiotherapist and speech pathologists who together with the general practitioner provide care to the resident in their facility rather than admitting them to hospital.

This approach has been encouraged by the Royal Commission into Aged Care Quality and Safety (Aged Care Royal Commission) in its Final report (Recommendation 58). This will further increase the responsibility of staff in residential aged care to provide high level nursing care and monitoring for their residents. Whilst this would traditionally be the role of the registered nurse within a facility, with the decrease in registered nursing hours, this role is likely to fall to the personal care workers. For instance, a resident with a severe bladder infection may require regular antibiotics administered through an intravenous cannula. The outreach team will insert the cannula and give the first dose of antibiotics. After this it is up to care staff to continue the care. Whilst the RN would actually inject the medication, it is the personal care worker who needs to ensure that the cannula is not pulled out by the resident, and ensures that they are drinking plenty of fluids, and that the delirium (acute confusional state) that often accompanies a urinary tract infection is well managed with one to one reassurance and care.

(r) any other information that you consider relevant.

Managing care at the end of life for residents is also extremely important as most older residents die in the facility rather than in hospital. This is a particularly specialised area of care and requires a degree of skill and knowledge. However in many cases the care of a dying resident falls to the personal care workers with occasional input from a registered or enrolled nurse. Using and monitoring syringe drivers to administer symptom relieving medication requires training and skills to understand the effects of the various medications. Whilst this may be supervised by a registered nurse, it is the personal care worker who is most likely to be sitting with the dying patient providing reassurance and support.

The Aged Care Royal Commission has noted that there is a need for personal care workers to understand the health risks associated with their care of frail unwell older people. It has been recommended by the Aged Care Royal Commission (Recommendation 77) that all personal care workers should have a minimum of a Certificate III qualification to work in aged care, reflecting the views of the Commission that a higher level of skill and knowledge is now necessary to work in aged care services because of the increased responsibility in providing care for this group of older people.'

[31] Statement of Lauren Hutchins, 1 April 2021

‘13. I was involved in preparing the HSU's submission to the Royal Commission into Aged Care Quality and Safety (Royal Commission) in relation to the impact COVID was having on our membership and their working conditions.

14. Annexed to this statement and marked LH-2 is a copy of the HSU's submission to the Royal Commission.

Workforce Submissions

15. In February 2020, submissions into the workforce (Workforce Submissions) of Counsel Assisting the Royal Commission became public.

16. The Workforce Submissions, at paragraph 535 state as follows:

> 535. A consistent theme in the evidence before the Royal Commissioners has been that aged care workers are insufficiently remunerated for the work they perform and endure poor working conditions. We submit that these deficiencies need to be addressed so that:
>
> a. this important work is appropriately rewarded; and
>
> b. the sector becomes a more attractive one in which to work to improve both attraction of new employees and retention of existing ones.

17. A copy of the relevant extract of the Workforce Submissions is annexed to this statement and marked 'LH-3'.

Royal Commission's Final Report

18 I have reviewed the Royal Commission's Final Report which was made public on 1 March 2021.

19. Recommendation 84 of the Final Report is in the following terms:

> Recommendation 84: Increases in award wages Employee organisations entitled to represent the industrial interests of aged care employees covered by the Aged Care Award 2010, the Social, Community, Home Care and Disability Services Industry Award 2010 and the Nurses Award 2010 should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to: a. reflect the work value of aged care employees in accordance with section 158 of the Fair Work Act 2009 (Cth), and/or b. seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the Fair Work Act 2009 (Cth).

20. A copy of the relevant extract of the Recommendations of the Royal Commission contained in the Final Report are annexed to this statement and marked 'LH-4'.’

[32] Reply statement of Lauren Hutchins, 22 April 2022

‘*Government funding*

8. In my first statement, I referred to the current funding arrangements in Aged Care. The Federal Government is the primary source of funding for residential aged care facilities.

9. On or about 1 February 2022, Prime Minister Scott Morrison accepted that the Federal Government would have to fund any increase to minimum award wages ordered by the Commission in an address to the National Press Club:

> JOURNALIST: Prime Minister, Mark Riley, 7 Network. Are your bonuses for aged care sector workers, which have been generally accepted as a good thing, although some suggest in the shadows of an election, they sound like how to vote cheques. The sector says, the workers say what they really need is an increase in their base rate of pay. These are appallingly low paid workers doing extraordinary work, not just in the pandemic, obviously much more obvious during the pandemic, but every day for our older citizens. Labor says it will intervene in the Fair Work Commission case to argue for an increase in their base rate. Why won't your government do that?
>
> PRIME MINISTER: Well, let me address your first question. The $400 payments, retention payments, that's what they effectively are. We've already done this once before. And we know it works. And with the workforce challenges we've had, particularly Omicron, that's why this has come about, not for any other reason suggested. What we're doing here is helping the aged care providers give that support to aged care workers during this pandemic to be able to keep them there working in those facilities, which is incredibly important. That's what it's designed to do and we know it was effective last time and we believe it will be effective again and it needs to happen now. And it has been done in consultation with the industry as well. One of the things that they have called for as we've responded to the Omicron variant. So that is why we're doing this. We've done it before and we're doing it again, and we believe that will help manage the significant demands on those workers themselves as well as the aged care facilities. Now the other matter, I've noticed the suggestion made by the Leader of the Opposition. I haven't heard how he proposes to fund that. I don't know what he estimates the cost of that will be and how he would work that through. So that's for him to explain as to how he can pay for the things he tells Australians he thinks he can do. I've always been, I think, pretty upfront about that sort of thing, and there's a process underway and we will let that process follow its course and we'll of course have to absorb any decision that is taken there. And that's the way I think these things should be dealt with. But you know, we've all had experience with those who have worked in aged care, particularly if you've had a parent who's been in palliative care, end of life care. And we're incredibly grateful. And there are many things we want to do in this country and we want to encourage them to do that. And the aged care workforce strategy, which has been worked together by the Minister for Health and Aged Care and the Minister for Workforce Stuart Robert, will further address our plans to support the aged care workforce. We'll have more to say about that, and I can assure you our plans will be costed, our plans will be funded and we'll know how they work. (underlining added)

10. A full transcript of the Prime Minister's remarks is annexed to this statement and marked LH-2.

11. On or about 14 April 2022, the Prime Minister again confirmed the Federal Government would ensure any increase to minimum award wages ordered by the Commission would be abided by with assistance from the Government:

> O'LOUGHLIN: Can I also, speaking of Bridget Archer, she's supporting a wage increase for aged care workers. Federal Labor has promised to pay the extra $5 if they made government. That's $5 an hour more. Will your Government give the aged care workers a pay rise?

PRIME MINISTER: Well, we're following the Fair Work Commission's advice, and Labor doesn't have a policy, because they haven't costed it. I mean, their policy is to write a letter to the Fair Work Commission. I don't know how powerful Mr Albanese's pen is, but the Fair Work Commission will make a decision on that, and we've always said that we'd work with industry to abide by that. I mean, it's a challenging sector. We've put $19.1 billion in the last two years in our response to the Royal Commission on Aged Care. That includes $10 extra per resident per day, particularly to deal with things like their nutritional needs and that response of training more people in the workforce to get them into the aged care sector. We've got more and more people becoming reliant on those services. It's an incredibly complicated area of policy. There are no simple solutions there, but at $19. 1 billion in investment additionally in aged care to deal with these problems - it's the single largest response any Federal Government has ever taken to an issue that has been difficult for 30 years and a couple of glib announcements by our opponents that they haven't thought through does not match a $19.1 billion comprehensive response to a Royal Commission that I called. (underlining added)

56. Recommendation 78 of the Royal Commission proposed that the Government make a Certificate Ill a mandatory minimum qualification for PCWs. A copy of this recommendation is annexed to this statement and marked LH-13. This recommendation was rejected by the Federal Government.'

[33] Statement of Sara Charlesworth, 1 April 2021

From Report annexed and marked 'SC-1':

'*The nature of the workforce in residential aged care including the demographics and whether the workforce is female dominated*

19. The lack of accurate and current data on the frontline aged care workforce, including in residential aged care, is a national disgrace. This is for two main reasons, the level of accurate detail available and the reliability of available data. The lack of accessible disaggregation of occupational classifications in Australian Bureau of Statistics data and the use of poorly described occupational classifications which do not reflect the work undertaken makes it hard to accurately describe the key characteristics of workers in residential aged care. Further, the four yearly National Aged Care Workforce Census and Survey (NACWCS), conducted on behalf of the Australian Department of Health, does not directly survey aged care workers but accesses only a sample of directly employed PAYG workers through surveys distributed by participating facilities.

20. Lack of disaggregated data also makes it difficult for the industrial parties and policy makers to accurately track the characteristics and features of employment in aged care. I note that the Royal Commission into Age Care Quality & Safety has recommended that the Australian Institute of Health and Welfare should undertake critical aged care data governance and management functions. This should include the demographics, skills and wages and conditions of the aged care workforce.

21. As above, the two main sets of data used to date to describe the main features of the residential aged care workforce each have their own limits and deficiencies: ABS Census data and the National Aged Care Workforce Census and Survey (NACWCS) data.

Whether there has been a change in the composition of the workforce in residential aged care

47. The occupational composition of the residential aged care workforce has dramatically shifted over time. As set out in the 2016 NACWCS report in Table 3.2, between 2003 and 2016 there was a decline of the share of registered nurses in the direct care workforce from 21% in 2003 to 14.6% in 2016 with a decline in enrolled nurses from 13.1% in 2003 to 10.2% in 2016. In 2016, PCWs constituted 70.3% of the direct care workforce, a dramatic increase from 58.5% in 2003 (Mavromaras et al 2017: 34). The Royal Commission into Aged Care Quality & Safety found that changes around the introduction of the Aged Care Act 1997 had resulted in providers replacing nursing staff with PWCs to reduce costs (2021, Vol 2: 211).

48. There has also been a significant change in the proportion of direct care workers in residential aged care. Drawing on NACWCS data, the Royal Commission into Aged Care Quality & Safety found the estimated proportion of the residential aged care workforce in direct care roles fell significantly: in 2016, 65% of residential aged care employees worked in direct care roles, compared with 74% in 2003 (2021, Vol 2: 211). Indeed calculations undertaken by Emerita Professor Gabrielle Meagher, using NACWCS data, suggest falling staff ratios in residential aged care (Meagher et al 2019: 12-13). She found that examining the average ratio of direct care workers to operational places in residential aged care between 2003-2016, that while the number of FTE direct care workers increased 29% across this period, the number of operational places increased by 32%.

49. The increased reliance on PCWs and the falling ratios of direct care staff to residents place unacceptable burdens on the PCW workforce who. are trying to provide care and support to increasingly older, frailer residents with complex needs with inadequate staffing and insufficient time in which to undertake their work (Meagher et al 2019).

The skills required to perform work in residential aged care by personal care workers covered by the Award

52. As the Royal Commission into Aged Care Quality & Safety has found, today aged care residents are older and frailer and have more complex care needs than 20 years ago. As noted in my submission to the Royal Commission, a 2019 UK report suggests that there are distinct areas of skills required to carry out care work with the aged and frail. (Hayes et al 2019). These include: …

56. In its summary of its Final Report the Royal Commission refers to one of the challenges in aged care being 'an under-resourced and under-skilled workforce'. While there is no doubt the PCA workforce is under-resourced, in my view it is simply inaccurate to state that the workforce is 'under-skilled'. This is a frequently made assertion yet it is assumes that most current staff, including PCAs, do not have sufficient skill, knowledge and competencies to provide good quality care. In the DWGC project we did not find that to be the case in the Australian case study sites we visited. The residential aged care facilities visited as part of this project are recognised in the sector as providing comparatively high quality care. Even in this better practice context what we did find in relation to the exercise of skills by PCWs is that there is often a lack of sufficient time for the practice of skills held. As we noted in our DWGC submission to the Royal Commission, the allocation of adequate time to care is crucial to the optimum use of both existing and acquired skills, knowledge and competencies. We also pointed, as noted above, to the lack of recognition of the skills and competencies required and used in award skill classifications. The inadequate provision of additional on-the job training opportunities together with the lack of any meaningful wage increases in progression up the limited skill classification in the Aged Care Award works to reinforce a view of the workers as 'under-skilled'.

The benefits and consequences of improving rates of pay and conditions for personal care workers in residential aged care

58. Decent pay and working conditions underpin good quality residential care. Indeed, properly valuing the work of the majority PCW workforce in residential aged care is linked to properly valuing the residents to whom it is provided.

59. The Final Report of the Royal Commission into Aged Care Quality & Safety recognises the crucial dependence of a high quality system of residential aged care on a skilled, well-resourced and decently remunerated workforce. It is the first of many inquiries into the aged care system over the last 20 years to make concrete proposals to increase the remuneration of aged care workers. Not only did the Royal Commissioners recommend that the federal government, providers and unions should collaborate on a work value case and equal remuneration application to the Fair Work Commission (Recommendation 76), but they also recommended that amendments be made to residential aged care indexation arrangements so as to ensure wage increases that might come out of the current claim for PCWs are reflected in government funding (Recommendation 110). Further, the proposed minimum staff time standard of mandated care hours per resident per day would provide more resourcing and more PCW staff time to enable them to provide good quality care and support to residents (Recommendation 86) As the Royal Commissioners note in their Executive Summary:

> Knowing those they care for helps care staff to understand how someone would like to be cared for and what is important to them. It helps staff to care-and to care in a way that reinforces that person's sense of self and maintains their dignity. This type of person-centred care takes time. The evidence is that current funding levels in residential aged care do not allow workers the time to provide high quality relationship-based care. (2021, Vol 1: 9):'

[34] Supplementary statement of Sara Charlesworth, 22 October 2021

'8. I also made an invited statement to the Royal Commission into Aged Care Quality & Safety, and gave expert evidence before the Commission in October 2019. I co-authored two other submissions to the Royal Commission.

31. Lack of disaggregated data reported by workers also makes it difficult for the industrial parties and policy makers to accurately track the characteristics and features of employment in aged care. I note that the Royal Commission into Aged Care Quality & Safety has recommended that the Australian Institute of Health and Welfare should undertake critical aged care data governance and management functions. This should include the demographics, skills and wages and conditions of the aged care workforce. Such an exercise needs to directly survey workers to produce accurate data.

56. At the same time there continues to be no requirement on aged care providers to direct government funding towards the payment of wages or indeed any additional funding towards wages. The Royal Commission found that there was limited scrutiny applied to the suitability of many new home care providers and that government oversight, including by the Aged Care Quality and Safety Commission, is particularly undeveloped in respect to home care (RCACQS 2021). There is very little transparency as to how providers spend the funds they receive from government beyond general data collected by ACFA. Recent aggregate ACFA data indicates that the average expenditure per consumer per day on wages and salaries for care staff has in fact reduced from $28.78 per day in 2016/2017 to $25.49 per day in 2019/20 (ACFA 2021: 48). This is a cause for some concern especially when the aggregate financial performance of home care providers per consumer per year has increased (ACFA 2021: 49).

65. Indeed, the historical disregard the federal government has demonstrated for ensuring decent award rates in a sector for which it is directly responsible works to normalise low wages. Despite

numerous government inquiries and the Royal Commission establishing the detrimental impact low wages have on the attraction and retention of aged care workers, the government continues to demonstrate a lack of interest in, or accountability for, the low wages in home care. This disregard reinforces a dominant aged care sector logic or narrative that (good) home care workers are not overly concerned with low wages and poor working time conditions as they find meaning in their work. As above, this view is not supported by the HCWs surveyed in the 2016 NACWCS. Indeed it is hard to imagine that similar assumptions would be made about government infrastructure spending in relation to workers in the male-dominated construction industry.

72. In its summary of its Final Report the Royal Commission refers to one of the challenges in aged care being 'an under-resourced and under-skilled workforce'. While there is no doubt the HCW workforce is under-resourced, in my view it is simply inaccurate to state that the workforce is 'under-skilled'. This is a frequently made assertion, yet it assumes that most current staff, including HCWs, do not have sufficient skill, knowledge and competencies to provide good quality care. This assertion is also belied by the specialist skills CHSP and HCPP providers asserted were held by HCWs in the Department of Health 2020 Census report, which highlight the additional skills required to undertake the range of tasks allocated by providers to home care workers. In the DWGC project we found, however, that there is often insufficient time for the practice of skills held (see also Meagher et al 2019). The allocation of adequate time to care is crucial to the optimum use of both existing and acquired skills, knowledge and competencies. However many home care workers report rushed care, particularly under the CDC model in the HCPP (see Meagher et al 2019).'

[35] Statement of Kathleen Eagar, 1 April 2021

From Report annexed and marked 'KE-1':

'*2 The changing legislative context for residential aged care*

…

This legislative framework does not mandate minimum staffing levels for residential aged care. However, the recent Royal Commission into Aged Care Quality and Safety has recommended that mandated staff ratios be introduced (see below).

3 The changing policy context for residential aged care

…

That said, the contemporary aged care sector is beset with problems and has been the subject of considerable public criticism. In response, the government established a Royal Commission into Aged Care Quality and Safety in 2018. It has recently reported. This Royal Commission took more than two years and received over 16,000 submissions. A recurring theme throughout has been that the staffing levels and skill mix within aged care has been insufficient to support quality outcomes for residents and that the staff profile of the sector has not kept pace with the increasing needs of aged care residents.

These are echoed in the submissions of consumer stakeholders to the numerous inquiries and reviews into aged care of recent years, particularly in regard to the care needs associated with aged care residents living with dementia who have responsive behaviours, also referred to as behavioural and psychological symptoms of dementia (BPSD).

4 The funding context for residential aged care

…

The final report of the Royal Commission into Aged Care Quality and Safety was submitted in February 2021 and, among its 148 recommendations, it recommended two significant changes with respect to funding. 5 The first is the introduction of a new funding model to replace the ACFI. The new recommended funding model is the Australian National Aged Care Classification (AN-ACC) and funding model that my team designed. The second is a significant increase in the quantum of funding provided by the Commonwealth. The major case for increased funding in the Commission's final report rests on (1) increasing overall staffing levels and (2) improving pay and conditions for aged care workers.

One recommendation is directly relevant:

> "**Recommendation 84: Increases in award wages**
> Employee organisations entitled to represent the industrial interests of aged care employees covered by the Aged Core Award 2010, the Social, Community, Home Core and Disability Services Industry Award 2010 and the Nurses Award 2010 should collaborate with the Australian Government and employers and apply to vary wage rates in those awards to:
>
> a. reflect the work value of aged care employees in accordance with section 158 of the Fair Work Act 2009 (Cth), and/or
>
> b. seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the Fair Work Act 2009 (Cth)."

The government response to the recommendations of the Royal Commission into Aged Care Quality and Safety is expected in May 2021.'

[36] Statement of Gabrielle Meagher, 1 April 2021

From Report annexed and marked "GM-1":

'In its final report, the Royal Commission into Aged Care Quality and Safety found that Australia has ' an undervalued aged care workforce' and that care workers are ' paid comparatively less than their counterparts in other health and social service sectors'. It further found that '[t]he bulk of the aged care workforce does not receive wages and enjoy terms and conditions of employment that adequately reflect the important caring role they play'.

1.1 High levels of care and support needs

There is clear evidence of older people who live residential aged care are frail and that a majority suffers from multiple forms of ill health. The best available data show that:

…

- *Older people living in residential aged care are at significant risk of malnutrition. A recent research review found that around half all residents were malnourished, [Agarwal et al (2016)] while the final report of the Royal Commission into Aged Care Quality and Safety cites prevalence of between 22 and 50%. [Volume 2, page 115]*

The data about the direct care workforce presented in Table 1 and Figure 1 point to the loss of specialised professional staff employed in residential aged care over recent decades.

2.2 The changing occupational structure of the RAC workforce

…

The data about the direct care workforce presented in Table 1 and Figure 1 point to the loss of specialised professional staff employed in residential aged care over recent decades. However, not all the people who provide support and care to older people living in residential aged care are employed within facilities, and the availability of the services of other, non-employed medical and allied health professions is essential to ensuring the well-being of residents. The services of external specialist professions are also undersupplied in residential aged care. The Royal Commission into Aged Care Quality and Safety reports that 'older people living in residential aged care have less access to specialist health care than their peers in the community, despite them having much higher levels of care needs' [Royal Commission into Aged Care, Final Report Vol 2, page 79; based on data from the AIHW]. Of particular concern is the lack of access to specialist palliative and end-of-life care, given that the vast majority of older people who move into residential care ultimately die there.

3.1 Larger facilities, fewer providers in residential aged care

Residential care places (for individual older people) are located within.facilities, which are owned by providers. Facilities can be of different sizes, as can providers, and the size of both has increased over time. Table 2 puts trends in places, facilities and providers together for 201 L-2019. The table shows that, between 2011 and 2019, while the number of operational places increased by 16%, the number offacilities remained more or less stable, and the number of providers fell by 18%.

If the number of places is growing, while the number of facilities is stable, then by logic, the average size of facilities is increasing. Figure 5 shows the distribution of places in residential aged care by size of facility. In 2003, around a quarter of all places in residential care were in facilities with 40 or fewer places, while less than half (46%) were in large facilities, with 61 or more places. By 2020, only 7% of places were in small facilities of up to 40 places, while 80% were in facilities of 61 places or more. Among the majority of facilities that have 61 or more places is a significant group with more than 120 places. In data reported to the Royal Commission, around one in six (17%) facilities has 121 places or more. [See Table 3, page 168 of Royal Commission into Aged Care, Final Report, Volume 2.]

Further, the average size of provider organisations is increasing, as some large for-profit corporations, which run chains of facilities, have grown by acquiring other providers, and as some non-profit providers merged or consolidated their operations under a larger, affiliated entity. [Footnote omitted] In 2012-13, there were 667 providers who owned a single facility and a further 307 who owned two to six facilities. By 2018-19, the number of providers with a single facility had declined 16% to 547 and the number of providers with 2-6 homes had declined 19% to 244. The number of providers owning 7-19 homes was more or less stable at about 60 across this period, while the number of providers who owned 20 or more homes increased 40% from 15 to 21. [Footnote omitted] Thus, while the share of single-home providers is fairly stable at around 63%, their share of places has fallen from 24% in 2013-14 to 20% in 2019-2020. Across the same period, providers who own 20 or more facilities have increased from 1.5 to 2% of all providers, while their share of places has increased from 20% in 2013-14 to 33% in 2019-20.46 According to the Royal Commission into Aged Care Quality and Safety, 'This creates regulatory risk as providers become "too big to fail",' such that poor providers may be permitted to continue

operating, 'because failure of a single provider may affect thousands of vulnerable people receiving care across many locations' . [Final Report Volume 2, page 202.]

3.3 Implications of structural change for care quality

Change in the structure of the sector, notably growing facility size and increasing for-profit ownership, have implications for the quality of care. Research conducted for the Royal Commission on Aged Care Quality and Safety found that for-profit providers had lower average quality than public and non-profit providers. Facilities were allocated to one of three categories by the researchers, who note that the three 'quality levels reflect the quality found among facilities within the current residential aged care system under current funding levels' . [Footnote omitted] While the majority of facilities (78%) fell in the middle category (Q2), there is a clear association between ownership and quality. Very few for-profit facilities (4%) were higher quality (Q1), compared to 13% of non-profit facilities and 24% of government-owned facilities. [Final Report Volume 2, Table 2, page 166] As Figure 6 shows, for-profit facilities are under-represented among higher quality providers (Column 1, Q1) and over-represented among lower quality facilities (Column 3, Q3), relative to the share of for-profit facilities overall (Column 4). These findings are corroborated in earlier Australian research, [Footnote omitted] and in international studies. [Footnote omitted]

Research conducted for the Royal Commission also found that larger facility size is clearly associated with poorer quality.[15] Large facilities were underrepresented among higher quality facilities (QI) compared to those with fewer places, and overrepresented among facilities with lower quality. For example, very large facilities - those with 121 places or more - were 4% of the higher quality facilities and 29% of the lower quality facilities, while being only 18% of facilities overall. Figure 7 shows the very clear association between facility size and quality. While the majority of facilities in all size groups fell in the middle Q2 quality category, as facility size increases, the share of higher quality facilities falls and the share of lower quality facilities rises. As noted above, the average size of for-profit facilities is considerably larger than among non-profit and public providers.

4. Current principles of aged care quality and associated regulation

…

The ideals of person- and relationship-centred care are strongly reflected in the final report of the recently-completed Royal Commission into Aged Care Quality and Safety. The report offers a clear and detailed account of attributes of high quality aged care, drawing on research prepared under the auspices of the Royal Commission and on the testimony of large numbers of older people, their families, and other individuals and organisations engaged in various ways in providing support and care within the aged care system. The Royal Commission's Recommendation 13 provides an authoritative overview of the characteristics of high quality aged care; see Box 1 below.

The Royal Commission's recommendations are forward-looking. However, the ideals of person-centred care are already embodied in Australia's aged care policy and associated regulation, for example, in the Aged Care Quality Standards (ACQS) for providers and the related Charter of Aged Care Rights for older people. The new ACQS and Charter), in force since 1 July 2019, are more comprehensive than those they replaced. Their aims include improving the quality of life of residents by enhancing infection control, catering, cleaning and laundry services in addition to clinical and other forms of personal support. [Footnotes omitted]'

[15] International research also finds that quality is higher in smaller facilities, and declines with facility size (Rantz et al. 2004).

[37] Supplementary statement of Gabrielle Meagher, 27 October 2021
Box 1: The Royal Commission's characteristics of high quality aged care [Final Report Vol 3A, p. 92]

Recommendation 13: Embedding high quality aged care

1. The Aged Care Act 1997 (Cth) should be amended to provide that the Australian Commission on Safety and Quality in Health and Aged Care, in setting and amending safety and quality Standards for aged care (under the functions referred to in Recommendation 18), give effect to the following characteristics of high quality aged care:

a. diligent and skilful care

b. safe and insightful care

c. caring and compassionate relationships

d. empowering care

e. timely care.

2. 'High quality' care puts older people first. It means a standard of care designed to meet the particular needs and aspirations of the people receiving aged care. High quality care shall:

a. be delivered with compassion and respect for the individuality and dignity of the person receiving care

b. be personal and designed to respond to the person's expressed personal needs, aspirations, and their preferences regarding the manner by which their care is delivered

c. be provided on the basis of a clinical assessment, and regular clinical review, of the person's health and wellbeing, and that the clinical assessment will specify care designed to meet the individual needs of the person receiving care, such as risk of falls, pressure injuries, nutrition, mental health, cognitive impairment and end-of-life care

d. enhance to the highest degree reasonably possible the physical and cognitive capacities and the mental health of the person

e. support the person to participate in recreational activity and social activities and engagement.

6.1 Changing occupational profile, increasing work demands

…

Because of these changes in the occupational profile of the direct care workforce, personal care assistants are taking on tasks that were previously carried out by nurses, including without supervision by nurses. [16]

6.2 Unique demands of ancillary work in residential aged care settings

Increased levels of need and diversity among older people living in residential care also affect the work of ancillary and administrative workers. For example, the Royal Commission cites evidence that food service staff need more increasingly specialised knowledge of older people's nutritional needs, special diets and the psychology of their social interaction. [17] As discussed above, a significant proportion of older people living in aged care facilities are malnourished, and residents have twice the prevalence of diabetes compared to older people living in the community. They also have high prevalence of gastrointestinal disorders (including acid-related disorders of the upper GI tract and constipation) and cardiovascular disorders [Footnote omitted] all of which may require special diets.

7. Work value issues in residential aged care

…

Employment in residential aged care is overwhelmingly female-dominated in Australia, across almost all occupational groups. This is also the case in comparable countries, including New Zealand, the United Kingdom and the United States. [Footnotes omitted] Work in residential aged is also low paid, relative to the skills demanded. Low pay undermines residential aged care workers' status and living standards and presents disincentives to work in the sector. The Royal Commission into Aged Care Quality and Safety found that low pay, poor working conditions and lack of opportunities for progression and of career pathways mean that residential aged care services have difficulty attracting and retaining appropriate staff.[18]

7.4 The social status of old people and recipients of residential aged care

The status of recipients of residential aged care services also contributes to the undervaluation of care work. The Final Report of the Royal Commission into Aged Care Quality and Safety stated that '[a]ttitudes and assumptions about older people and aged care affect the delivery of aged care', and cited evidence that 'as a society, we underestimate and devalue older people's contributions to the community'.[19]

Conclusion

The Royal Commission into Aged Care Quality and Safety found that Australia has 'an undervalued aged care workforce' and that care workers are 'paid comparatively less than their counterparts in other health and social service sectors'.[20] It further found that '[t]he bulk of the

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[16] Royal Commission into Aged Care Quality and Safety (2019), *Interim Report: Neglect*, Australian Government, 31 October, Volume 2, page 18. Henderson et al. (2017) found that declining nurse numbers meant personal care assistants were called upon to work outside their scope of practice.

[17] Royal Commission into Aged Care Quality and Safety (2019), *Interim Report: Neglect*, Australian Government, 31 October, Vol 2 p.226.

[18] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March 2021, Volume 2 p.213.

[19] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March 2021, Volume 2 p.14.

[20] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March 2021, Volume 2 pp.211, 213.

aged care workforce does not receive wages and enjoy terms and conditions of employment that adequately reflect the important caring role they play'.[21]

3.4 Chamber of Commerce and Industry of Western Australia

[38] CCIWA submission *Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021.*, June 2021

'The prospect of further reform following the Royal Commission, and doubts about the shape and direction that might take, added further uncertainty, while at the same time presenting as a potential opportunity for positive long-term reform to improve the sustainability and quality of aged care services. Nevertheless, this uncertainty and the deterioration in financial performance, together with the demands of managing the COVID-19 pandemic, have resulted in a reluctance by many residential care providers to embark on new investments.

The Government's response to the Royal Commission's Final Report is substantial and involves a very significant increase in Government funding and structural change. From the perspective of older Australians, the announced reforms are positive and hold out the prospect of improved access and improved care standards. But these reforms come at a considerable cost. Without reform of consumer funding contributions, the Government and therefore future taxpayers will be facing significant sustainability concerns.[22]

It is noteworthy that despite the Royal Commission's recommendation that the Australian Government join with employers and employees in a joint submission to the Fair Work Commission to increase minimum award wages, the Government has opted to allow the current submission to the Fair Work Commission by the Health Services Union to take its course.[23]

ACFA notes that policy regarding fees for additional services was not addressed in either the Final Report of the Royal Commission into Aged Care Quality and Safety or the Government's May 2020-21 Budget response.[24]

'The Government's response to the final report of the Royal Commission into Aged Care Quality and Safety announced additional funding for residential care in response to the current financial pressures. In particular, the Government accepted the Royal Commission's recommendation that a new $10 per resident per day basic daily fee supplement should be introduced to help address immediate financial pressures. This will provide an additional $3.2 billion over the next four years and should help relieve some of the financial pressure.

ACFA has pointed out in previous reports that the formula used for indexing care payments under ACFI does not cover wage cost movements and, in effect, entails an expectation of significant productivity improvements. Pending the move to independent price determination based on costing studies, the use of the current indexation formula will continue to be a contributor to the financial pressure experienced by providers. A moderating factor has been the recent increase in the real growth of ACFI payments per resident per day. After real growth of less than 1 per cent in each of the years between 2017-18 and 2019-20 (which includes a short

[21] Royal Commission into Aged Care Quality and Safety (2021), *Final Report: Care, Dignity and Respect*, Australian Government, 1 March 2021, Volume 2 p.214

[22] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 p.7.

[23] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 p.25.

[24] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 p.81.

period when indexation was paused), real growth has steadily increased since January 2020, averaging 2.4 per cent for 2020.

Looking ahead, the move to independent and transparent price determination arrangements based on regular costing studies, and the introduction of AN-ACC to replace the ACFI, provides the opportunity to remove the volatility in funding that has characterised ACFI and to base price determination on evidence of the contemporary cost of the efficient delivery of aged care.'[25]

For-profit providers have previously emphasised that the current return on capital employed in aged care was below the cost of capital and, in the absence of any change, this would curtail additional investment in the sector. Uncertainty around the implementation of reforms following the Royal Commission may continue to delay some investment plans in the residential aged care sector. It will be important to monitor whether sentiment changes following the Government's response to the Royal Commission's final report.[26]

Mindful of these underlying issues, ACFA had identified in its recent reports and in its submission to the Royal Commission that a sustainable and high quality aged care system needed the Government's response to the Royal Commission to result in an aged care system with the following inter-related attributes:

- *reduced uncertainty for consumers, providers and financiers,*
- *table, predictable and effective pricing and funding allocation arrangements which create an environment that supports investment and innovation in aged care,*
- *pricing and funding arrangements that enable efficient providers of quality aged care services that meet community expectations to achieve an adequate rate of return,*
- *equitable contributions by consumers towards the cost of their aged care based on their capacity to pay,*
- *better informed and supported consumers to facilitate more effective engagement with the aged care system and the exercise of choice and control,*
- *effective prudential oversight, and*
- *sound management and governance arrangements.*[27]

In responding to the Royal Commission's 148 recommendations, of which 123 were joint, and 25 were specific to the individual Commissioners requiring a decision by Government, Government accepted or accepted in-principle 126 recommendations. The Government supported alternative options on four of the recommendations, 12 recommendations are subject to further consideration and six were not accepted.

The Government's response to the Royal Commission's Final Report is substantial and involves a very significant increase in Government funding. From the perspective of older Australians, the announced reforms are positive and hold out the prospect of improved access and improved care standards. But these reforms come at a considerable cost. Without reform of consumer funding contributions, the Government and therefore future taxpayers will be facing significant sustainability concerns.[28]

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[25] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 pp.105-106.

[26] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 p.125.

[27] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 p.142.

[28] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 p.142.

'ACFA is concerned that the Government's response does not address the long-term sustainability of aged care for Government and taxpayers. Even before the Government added substantially to the structural cost of the Commonwealth Budget through its response to the Royal Commission, it was recognised that the combination of current funding arrangements, rising community expectations and an ageing population meant that the projected rapidly increasing cost of aged care for the Budget and taxpayers was not sustainable. ACFA stated that there has to be "an appropriate balance between the Government subsidy for consumers who cannot afford the aged care services they require and those consumers who can afford to contribute to the cost of the care and support they want as they age, such that the overall cost of aged care to taxpayers is sustainable."

ACFA reiterates the conclusion in its previous reports that sustainable aged care funding arrangements will require consumers who can afford to do so, to make a greater contribution towards the cost of their care, complemented by greater choice of high-quality services. Given the substantial increase in funding announced and the ageing of Australia's population, it is unsustainable to not address the proportion that consumers contribute.

Moreover, ACFA notes that an aged care system which remains overwhelmingly dependent on consolidated revenue, and without an appropriate balance between Budget and individual contributions, perpetuates the risk for the future funding and quality of aged care that was clearly demonstrated by the Royal Commission."[29]

4. Australian Government response to the final report of the Royal Commission into Aged Care Quality and Safety

[39] Report, 11 May 2021

'Recommendation 84: Increases in award wages

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

a. reflect the work value of aged care employees in accordance with section 158 of the *Fair Work Act 2009* (Cth), and/or

b. seek to ensure equal remuneration for men and women workers for work of equal or comparable value in accordance with section 302 of the *Fair Work Act 2009* (Cth).

The Government notes this matter is currently being considered by the Fair Work Commission (FWC). The Health Services Union has made claims to the FWC for increased wages for aged care workers covered by the Aged Care Award 2010. Decisions made by the FWC are independent of Government. The Government will provide information and data to the FWC as required.[30]'

[40] ANMF request for information and data, 22 June 2021

'*A.1 Underlying premises*

[29] Aged Care Financing Authority (2021) Ninth Report on the Funding and Financing of the Aged Care Industry – July 2021., June 2021 p.143.

[30] Australian Government response to the final report of the Royal Commission into Aged Care Quality and Safety Report, 11 May 2021 p.56.

4. The following are the premises that underpin the requests for information and data:

(1) The Commonwealth presently bears the primary burden of funding aged care.[31]

(2) Wages and wage growth are by far the most significant drivers of input costs for approved providers of residential care.[32] The Commonwealth's indexation of funding levels for aged care services has not, to date, kept up with input costs for aged care providers, including wages.[33]

(3) The way that the Commonwealth funds the aged care sector directly affects how employers negotiate pay and conditions.[34]

(4) There is likely to be a requirement for employers in the aged-care industry to employ additional staff in order to ensure that the minimum staff time standards for residential care being recommendation 86 in the Final Report, which was accepted by Government,[35] are met.

5. The primary conclusion drawn from these premises is that the degree to which the Commonwealth will provide further funding for the aged care sector, in addition to funding necessary to meet minimum staff requirements, will directly inform the degree to which employers will consider themselves able to meet wage increases of the kind sought by the employee associations.

6. The secondary conclusion is that the degree to which the Commonwealth will provide such further funding is likely to be a consideration of significance in determining the attitude of employer associations to the employee-association applications.'

[41] HSU and others request for information and data, 22 June 2021

'5. In Recommendation 108 of the Royal Commission's Final Report (relating to data governance and a national aged care dataset) the Royal Commission recommended that the AIHW is to perform a number of relevant functions including:

a. to collect (directly or in association with other bodies or people), store and manage aged care-related information and statistics (including information on the aged care workforce, the economics of aged care, the operation of the aged care market, and the delivery of aged care services), in consultation with the Australian Bureau of Statistics if necessary and specifically at

(i) to curate and make publicly available a National Aged Care Data Asset, which should at a minimum include data on:

(ii). the demographics, skills and wages and conditions of the aged care workforce.

[31] ANMF request for information and data dated 22 June 2021 footnote 1: See e.g., Royal Commission into Aged Care Quality and Safety, Final Report, ("Final Report") Vol 1, page 11. This may be as much as three-quarters of its funding (Final Report, Vol 1, page 25), or (based on 2018–19 figures), $19.9B of the $27B spent on aged care (Final Report, Vol 1, page 63).

[32] ANMF request for information and data dated 22 June 2021 footnote 2: Final Report, Vol 3, page 643, which suggests that wages and salaries are around 80–90 per cent of aged care costs.

[33] ANMF request for information and data dated 22 June 2021 footnote 3: Final Report, Vol 2, page 193, Fig 3; Vol 3, pp.637, 641.

[34] ANMF request for information and data dated 22 June 2021 footnote 4: Final Report, Vol 2 p.214.

[35] ANMF request for information and data dated 22 June 2021 footnote 5: Australian Government Response to the Final Report of the Royal Commission into Aged Care Quality and Safety, May 2021 pp.56–57.

In its response to the Recommendations the Commonwealth Government states:

> The Government agrees with the intention of this recommendation as a positive and valuable extension of various public-facing data activities already underway.

The HSU seeks information from the Commonwealth Government on what public-facing data activities it has already underway on the demographics, skills, and wages and conditions of the aged care workforce.'

[42] Australian Government Solicitor, 16 July 2021

'The Commonwealth will not be able to provide a response to questions regarding any planned decisions, as these are subject to decisions of Government and would be subject to Cabinet confidentiality, except where Government has publicly announced its position. In this regard, the Commonwealth refers the parties to the Australian Government's response to the Royal Commission's Final Report, in particular, the responses to Recommendations 78–83.[36]'

[43] Australian Government Solicitor, 23 July 2021

'As stated in our letter of 16 July 2021, the Commonwealth is unable to provide a response regarding planned decisions. In relation to publicly announced decisions, the Commonwealth refers the parties and FWC to the Australian Government's response to the Final Report, in particular, the responses to Recommendations 78–83 (pages 52–56), available at : https://www.health.gov.au/sites/default/files/documents/2021/05/australiangovernment-response-to-the-final-report-of-the-royal-commission-into-aged-carequality-and-safety.pdf.[37]'

5. Relevant references from the Research Reference List

[44] Royal Commission Reports:

- *Royal Commission into Aged Care Quality and Safety (2019),* Interim Report: Neglect, *Australian Government, 31 October.*
- *Royal Commission into Aged Care Quality and Safety (2020),* Aged Care and COVID-19: A Special Report, *Australian Government, 1 October 2020.*
- *Royal Commission into Aged Care Quality and Safety (2021),* Final Report: Care, Dignity and Respect, *Australian Government, 1 March.*

[45] Commissioned Background Papers

- Background Paper 1 - Navigating the maze: an overview of Australia's current aged care system, *Ms Carolyn Smith and the Office of the Royal Commission, 25 February 2019.*
- Background Paper 2 - Medium- and long-term pressures on the system: the changing demographics and dynamics of aged care, *Dr David Cullen and the Office of the Royal Commission, 1 May 2019.*

[36] Australian Government Solicitor response to request for information and data dated 16 July 2021 p. 3.

[37] Australian Government Solicitor information and data dated 23 July 2021 pp. 3-4.

- Background Paper 3 - Dementia in Australia: nature, prevalence and care, The Office of the Royal Commission, *3 May 2019.*

- Background Paper 4 - Restrictive practices in residential aged care in Australia, The Office of the Royal Commission, *3 May 2019.*

- Background Paper 5 - Advance care planning in Australia, The Office of the Royal Commission, *20 June 2019.*

- Background Paper 6 - Carers of older Australians, *The Office of the Royal Commission, 26 July 2019.*

- Background Paper 7 - Legislative framework for Aged Care Quality and Safety regulation, *The Office of the Royal Commission, 2 August 2019.*

- Background Paper 8 – A History of Aged Care Reviews, *The Office of the Royal Commission, 28 October 2019.*

- Royal Commission into Aged Care Quality and Safety (2020), 'Notices and Compliance Enforcement: January – March 2020', Australian Government.

- Royal Commission into Aged Care Quality and Safety (2020), 'Research Paper 9 – The Cost of Residential Aged Care', Australian Government, 27 August 2020.

- Royal Commission into Aged Care Quality and Safety (2020), 'Royal Commission Research Brief – Impact of Expenditure Constraints and Major Budget Savings Measures Paper', Australian Government, 14 September.

[46] Research Papers:

- Batchelor F et al (2020), 'Research Paper 14—Inside the system: home and respite care clients' perspectives', Report for the Royal Commission into Aged Care Quality and Safety, National Ageing Research Institute, 21 October 2020.

- Deloitte Access Economics (2020), 'Aged care reform: projecting future impacts', Report for the Royal Commission into Aged Care Quality and Safety, September 2020.

- Eagar K et al(2019), 'How Australian residential aged care staffing levels compare with international and national benchmarks', Research Study Commissioned by the Royal Commission into Aged Care Quality and Safety, Centre for Health Service Development, Australian Health Services Research Institute, University of Wollongong, October 2019.

- *Macdonald F and Charlesworth S (2021), 'Regulating for gender-equitable decent work in social and community services: Bringing the state back in', Journal of Industrial Relations, Vol. 63, No. 4, pp. 477-500.*

- *Wise S (2020), 'Staffing policy in aged care must look beyond the numbers', Australian Health Review, Vol. 44, No. 6, pp. 829-830.*

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