

SUBMISSION

**A new Aged Care Act: exposure draft.
Consultation Paper No. 2**

Submission Title:	A new Aged Care Act: exposure draft. Consultation paper No.2.
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CARERS QUEENSLAND

The activity and impact of providing care is best understood in terms of its context; as a relationship between two or more individuals, rooted in family, friendship, or community. Caring is a role rarely chosen by most, nor does it discriminate. Children and young people, people of working age and older people, people with disability, people who identify as culturally and linguistically diverse, First Nations Australians, people with diverse bodies, genders, relationships, and sexualities and those living in rural and remote Queensland provide care to family members or friends daily. For some caring is a short-term commitment while for others, it is a role that literally lasts a lifetime.

Family and friend carers provide unpaid care and support to family members and friends who have a disability, mental illness, chronic medical condition, terminal illness or are frail aged. Carers come from all walks of life.

Carers Queensland is the peak body representing the diverse concerns, needs and interests of carers and caring families in Queensland. Carers Queensland believes that all carers regardless of their age, disability, gender or gender expression, sexual orientation, religion, socioeconomic status, geographical location, or their cultural and linguistic differences should have the same rights, choices and opportunities and be able to enjoy optimum health, social and economic wellbeing and participate in family and community life, employment, and education like other citizens. Carers Queensland's mission is to improve the quality of life of all carers throughout Queensland.

We aspire to provide an independent platform from which to advance the issues and concerns of the 533,200 carers in Queensland and believe our knowledge and expertise in carer issues means we can provide the Government with relevant and trusted information that will ensure that the needs of carers will be recognised, respected, and acted on.

Our submission is informed by national and international peer reviewed data, our own experience as a service provider and the personal and often difficult admissions of carers, those people who provide unpaid care and support.

Introduction

Carers Queensland applauds the Commonwealth Government for seeking to redress the power imbalance between aged care providers and regulators and older people and their families through the new rights based aged legislation.

We appreciate the extent to which the government has sought out the opinions and suggestions of older people, their carers and families and the advocacy sector in drafting the exposure legislation thus far and welcome the opportunity to contribute to the discussions.

Carers Queensland respectfully provides the following recommendations for consideration.

Statement of Rights

Carers Queensland supports a right-based act that places the older person at the heart of service delivery funding, design, implementation, and regulation.

We believe that all services should be informed by the needs and aspirations of the older person; to ensure that the assessment processes and service delivery are culturally appropriate, psychosocially safe and trauma aware. This also means that the assessment process should allow for and respect the older person's right to self-determination including the right to engage in behaviours that are perceived to be risky.

Carers Queensland recommends that the:

- a. Statement of Rights includes reference to the older persons right to take risks
- b. Statement of Principles is amended to enable and support older people to take risks

Statement of Principles

The in-kind support provided by family and friend carers subsidises, not insignificantly, the Australian health and social care economies and supports the under resourced workforce. Acknowledging this, Carers Queensland believes that the Principle – *recognise the valuable contribution carers make to the aged care system, consistent with the current Carer Recognition Act, 2010* does not adequately articulate the needs of many carers, particularly young adult carers or frame the obligations of Commonwealth funded age care providers.

Unlike the aged care workforce, who has access to resources to develop and further career options and build and support resilience and capacity, the carer workforce is under resourced. With access restricted to limited emergency respite, peer support and counselling services, carers are left searching for assistance when in need of support such as supervision and debriefing, all of which are vital to their ongoing emotional and psychosocial wellbeing.

Carers Queensland recommends that the Principle is reworded to:

- a. Recognise, respect and support carers as the expert partner in the assessment and delivery of appropriate care and
- b. carers should be acknowledged as individuals with their own unique aspirations and needs beyond the caring role.

Supporters and Representatives

In principle, Carers Queensland supports the appointment of an older person's representative if that individual has already been appointed through relevant State, Territory or Commonwealth laws, to have decision making authority.

However, it is the experience of our Guardianship and Advocacy Program that not all representatives act in the best interests of the older person, and that mechanisms and appropriate delegations are required to support the System Governor to appoint another party as a representative when there is evidence of inappropriate behaviour or actions, to limit the representative's capacity to potentially misuse their powers.

Example of our concern

Adult children often provide care for their elderly parents, many of whom sacrifice employment and external relationship opportunities and remain living at home while their parents are alive. This places the adult child at a significant financial and social disadvantage from their non-carer peers. We know that elderly parents will verbally promise the family home to the adult child providing care to offset some of that financial loss, but when there is an external Power of Attorney in place, these verbal promises may not be upheld, and the property is sold leaving the adult child with no home or compensation for their financial, employment and relationship loss.

Having regard to our example above, we do not support the recommendation to limit an older person to having only supporters or only representatives. It needs to be recognised that families are complex structures and acknowledge that for many, it is the complexity of agreed, shared responsibilities, which enables them to provide care and support effectively.

Carers Queensland recommends that:

- a. public guidelines are drafted that describe the respective role and function of a supporter and a representative so that carers understand the limitations and responsibilities of both before they accept any responsibility
- b. the System Governor must consult with the older person's carer/s to determine the strength and currency of the older person's relationships if it necessary to appoint a supporter or representative
- c. a carer has the right to challenge or request a review of a representative appointed by the Systems Governor
- d. that an older person has, at any time, the right to access and use an advocate to voice their fears, concerns, and aspirations irrespective of having either a supporter or representative

Obligations – Safeguarding

We understand that for many people, including service providers, safeguarding is often perceived as an 'after the fact' course of action taken to separate the alleged perpetrator from the perceived 'victim,' and put in place measures to stop the event recurring.

Carers Queensland understands safeguarding to be a complex phenomenon of power, whereby abuse, harm and exploitation (actual or threatened) can and does occur across generations, between generations and can be conscious or unconsciously perpetrated. Research conducted for Carers

Queensland by the Queensland University of Technology¹ clearly demonstrates that carers experience abuse, harm, or exploitation within the care relationship, perpetrated or threatened by the vulnerable person or 'client.'

Carers Queensland is genuinely concerned that the information available to the System Governor about the suspected abuse, harm, or exploitation of an older person is being sourced from the State and Territory systems, as the local investigation and reporting processes:

- are inconsistent, limiting the interpretation of data to inform decision making for an older person residing in another State
- fail to recognise the potential for abuse of carers perpetrated by the older person.

We are troubled that the use of this information to support the appointment of a supporter or representative may place the older person, or others within the older person's household, such as the co-resident carer, at risk of harm, abuse, or exploitation.

Carers Queensland recommends the:

- a. Commonwealth Government develop and establish a national Safeguarding framework to:
 - i. protect those that are at risk of or are experiencing abuse, harm, or exploitation including carers
 - ii. ensure consistency of data and data analysis to support and inform decision making
 - iii. enable the aged and disability care sectors to develop their workforce capability and capacity to better support people to live free from harm, abuse, or exploitation (actual or threatened).

As a nationally accredited Safeguarding organisation, Carers Queensland would welcome the opportunity to collaborate with the Commonwealth Government in the design of a national safeguarding framework.

Equitable and Timely Access

Carers Queensland endorses Object b(3) - *the equitable access to, and flexible delivery of funded aged care services that put older people first and take into account the needs of individuals regardless of their location, background and life experience.*

Carers Queensland is however disappointed that the exposure legislation erodes this commitment by guaranteeing equitable access within 30 days to the aged care assessment component only.

Carers Queensland passionately believes that all Australians have the right to equitable access to appropriate services, irrespective of their locality and that it is incumbent upon Government to establish service level agreements with service providers to ensure service delivery within 30 days.

Carers Queensland recommends:

- a. equitable access in the Act is expanded to include equitable access to services regardless of geographic location.

¹ Obst, P., Murray, K., Walbank, S., Kelly, R. & Brazel, D. Experiences of abuse in Australian family carers and predictors of mental health and well-being. *Health and Social Care in the Community*. 2020;00-12. <https://doi.org/10.1111/hsc.13147>

Variations, Suspensions and Revocations of Registration

Carers Queensland appreciates that, at times, circumstances may warrant the Commissioner varying a provider's registration and/or require the closure of a facility but we have concern that carers may be asked to step-up and locate new providers in considerable haste and without support. We believe it is incumbent on the Government to establish processes to ensure the effective transition from one provider to another in these circumstances without relying on free services from carers.

Carers Queensland recommends:

- a. the Government establish a process by which the local aged care assessment teams can support the older person and their support network to locate suitable alternative services.