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The next steps for aged care

Forging a clear path after the Royal Commission

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The opinions in this report are those of the authors and do not necessarily represent the views of Grattan Institute's founding members, affiliates, individual board members, or reviewers. The authors are responsible for any errors or omissions.

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Overview

Major reform of Australia's aged care system must start now. The final report from the Royal Commission into Aged Care Quality and Safety has landed, declaring that fundamental change is needed to uphold the rights of older Australians.

Community expectations are high after two years of horrific stories exposing systemic failings that have persisted for decades. The Royal Commission called out successive governments for lack of leadership and inadequate funding. It highlighted perverse service and funding models, with weak accountability and an over-stretched, under-trained, and underpaid workforce. These conditions combine to create a system where thousands of older Australians miss out on care and one in three receive substandard care. This is unacceptable and cannot go on.

But unfortunately, the Royal Commission did not provide a clear roadmap to a better system. The final report was littered with disagreements between the two Commissioners.

This Grattan report seeks to provide clarity. It navigates through the differing views of the Commissioners to show how Australia can achieve a rights-based system that provides adequate care and support for all who need it. Many changes are needed, but four areas of reform are absolutely critical.

Firstly, Australia needs a new Aged Care Act that resets the system to upholding older Australians' rights. This would enshrine a universal entitlement to care, and enable a new streamlined and integrated single aged care program.

Secondly, aged care needs new governance systems to provide stronger accountability and transparency. An independent temporary Aged Care Transition body should be established, while the Department of Health implements urgent fixes to the current system.

Thirdly, Australia must set and enforce minimum care hours per resident in residential care, and all aged care workers should be required to have completed Certificate III training at the least.

Fourthly, funding must be dramatically increased. People receiving care should contribute to their ordinary costs of living, but there should be universal funding of aged care costs, just as there is universal funding through Medicare of patients' costs in public hospitals. It would provide universal insurance for people with high care needs, and it would reduce the need for precautionary savings in older age, because people would not need to worry about how they are going to fund their possible care needs.

The Royal Commission identified a $9.8 billion per year funding shortfall, and that figure will only increase as the population ages. This funding gap should be financed through some combination of a Medicare-style levy on taxable income, changes to the pension assets test, reductions in tax breaks on superannuation, or other mechanisms.

The onus is on the Federal Government to identify the best way to fund the increased spending, and to announce its decision soon.

These financing reforms will be worth it if they create an aged care system that all Australians can be proud of. The extra money could transform the system, by clearing the 100,000-person home care waiting list, employing 70,000 more aged care workers, and ensuring a qualified nurse is on site 24/7 in all residential care homes.

The Government's response to the Royal Commission report has not been promising so far. The Government must lift its ambition, and seize this opportunity to introduce landmark social policy reform fit to stand next to Medicare and the National Disability Insurance Scheme. Aged care reform is more than a political challenge, it's a moral imperative.

Recommendations

Four key areas	Royal Commission recommendations	Commissioner Briggs	Commissioner Pagone	Grattan model
Delivery model	A new rights-based Aged Care Act, including a universal right to needs-based care	✓	✓	✓But rights should also be embedded through the entire system
	A new single aged care program, including both care at home and residential care, with a single integrated assessment process	✓	✓	✓But care planning should be linked to funding
	Care finders employed by government	✓	✗	✓But need to be capable, & employed at regional-level
	Care managers employed by providers	✓	✓	✓But need independent oversight
Governance and accountability	New governance arrangements for policy, administration, quality, and prudential regulation	Department of Health, Cabinet Minister, and Safety & Quality Authority	Independent Aged Care Commission	Independent Transition body, and Department of Health with accountable Minister
	Regional offices for on-the-ground support	✓	✓	Independent regional governance
	Enhanced quality standards set by a reformed ACSQH	✓	✓	✓With specialised aged care committee
	System oversight by Inspector-General of Aged Care	✓	✓	✓
	Price setting by independent specialist body	Independent Hospital and Aged Care Pricing Authority	Independent Aged Care Pricing Authority	Independent Hospital and Aged Care Pricing Authority, with regional approach
	Community representative body	Council of Elders	Aged Care Advisory Council	National community advisory body, and regional committees
	Expanded quality indicators and star ratings	✓	✓	✓
	Probity and governance requirements on providers, including general duty to provide high-quality care	✓	✓	✓

Note: ACSQH = Australian Commission on Safety and Quality in Health.

Four key areas	Royal Commission recommendations	Commissioner Briggs	Commissioner Pagone	Grattan model
Workforce	National registration of all personal care workers	✓	✓	✓
	Minimum Certificate III training of personal carers, including mandatory dementia training	✓	✓	✓
	Review of standards of training programs through the Aged Care Services Industry Reference Committee	✓Add two competencies to Certificate III	✓	✓Add human rights competency to Certificate III, plus placement
	Registered nurse on site 24/7, minimum reportable care hours, case-mix adjusted	✓Plus report hours and staff mix for home care	✓	✓Plus report hours and staff mix for home care
	Increase award wages for care workers and reflect higher wages in fee determinations	✓	✓	✓
	Encourage providers to employ carers directly rather than using independent contractors	✓	✗	✓
	A new Aged Care Workforce Planning Division in the Department of Health, working with a reformed Aged Care Workforce Industry Council	✓Plus $100 million aged care workforce fund	✓	✓Including fund
Funding and financing	A new funding model that splits care costs, such as nursing, from ordinary costs of living, such as meals and accommodation	✓	✓	✓
	Universal funding for care covered by govt, just as patients in public hospitals are covered by Medicare	✓	✓Even more costs government-funded	✓
	Means-tested rental payments in residential care (capped), with RADs phased out	✓Plus capital financing facility	✓But phase-out of RADs needs further investigation	✓No capping of contributions, plus capital financing facility
	A new aged care levy	Medicare-style levy of 1% of personal income	Hypothecated aged care improvement levy (flat rate or progressive), to be investigated by the PC	A combination of Medicare-style levy, changes to pension assets test, changes to tax on super, and/or other mechanisms

Notes: RADs = Refundable Accommodation Deposits. PC = Productivity Commission.

	Year One –> by July 2022	Year Two –> by July 2023	Year Three –> by July 2024	Year Five –> by July 2026
Delivery model	• Expand home care significantly* • Develop respite care, social supports, and assistive technologies category	• Clear the home care waiting list* • Establish new integrated assessment for all aged care programs, with shadow 'care at home' assessment* • New 'care at home' category developed and tested, with allied health*	• New 'care at home' and residential category rolled out nationally	• Review of regional organisations by Auditor-General*
Governance and accountability	• Establish the Aged Care Transition body as a corporate Commonwealth entity* • Establish regional organisations, & recruit staff* • Establish a national community advisory body to co-design reforms with the transition body* • Amend IHPA legislation to include aged care • Establish Inspector-General of Aged Care* • Make ACSQH responsible for aged care quality standard-setting, and review standards • Introduce strict regulation of restraints • Publish star ratings for all aged care providers	• Introduce Aged Care Act formalising new systems for aged care • Incorporate Aged Care Transition body under the new Aged Care Act as a statutory body* • Begin national phase-in of regional organisations administering home care and support* • Establish regional community advisory bodies* • Expand quality indicators for residential care, and develop for 'care at home'	• Continue national roll-out of regional organisations to manage local service systems* • Introduce new approval and accreditation requirements for all providers	• Statutory review of Aged Care Transition body on whether it should be subsumed into the department* • ACSQH to review new quality standards
Workforce	• Undertake significant workforce planning through new planning division and reformed Council • Establish new national registration scheme • Mandate direct care hours and staff mix • Apply to Fair Work Commission to review award*	• Review certificate-based courses for aged care, with competencies added to include human rights training*		• 10-year workforce plan developed for 2025–35
Funding and financing	• Raise basic daily fee, increase viability supplement, amend indexation • IHPA responsible for AN-ACC & home care • Introduce legislation for a Medicare-style levy • Tax changes to pension assets test and super* • Real-time financial acquittals of government funding, and link care funding to care delivered*	• Establish a small household grant program for residential aged care accommodation • Finalise new fee arrangements for new aged care program*	• Review AN-ACC funding model*	• Establish capital financing facility for phase-out of RADs

*Notes: *Grattan proposal that is different to Royal Commission recommendations in content or timing. IHPA = Independent Hospital Pricing Authority. ACSQH = Australian Commission on Safety and Quality in Health. AN-ACC = Australian National Aged Care Classification.*

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1 Setting the ambition for reform

After 30 reviews and inquiries into aged care since the introduction of the *Aged Care Act 1997*,[1] it is now time to stop talking and start fixing the system. The final report of the Royal Commission, released on 1 March 2021, made the case clear: we need transformational change, starting now.

Not only do we need systemic reform – a 'step-change', as the Prime Minister says[2] – but this reform should be underpinned by a rights-based approach.

This report charts a path through the fog of disagreements between the two Commissioners. To ensure older Australians can get the support they need to live meaningful lives as they age, the Government must:

1. *Reform the delivery model,* under a new Aged Care Act that enshrines the rights of older people by creating a needs-based entitlement to care through a single, integrated aged care program.
2. *Reform governance and improving accountability*, by building new governance structures that uphold and protect the rights of older Australians
3. *Reform the aged care workforce*, by requiring carers to be better trained and paid, so they can focus on what matters: enabling the rights of older Australians
4. *Reform the funding and financing model of aged care,* so that older Australians have universal and equitable access to needed care

1. Royal Commission into Aged Care Quality and Safety (2019a, pp. 51–52).
2. Morrison (2021).

1.1 Systemic not incremental reform is needed

The Federal Government should no longer hide, as previous governments of both persuasions have. It is time for meaningful and sustained action. Piecemeal reform will not be enough.[3] If the Government fails now, it will fail the country. As an affluent world-leader, Australia cannot continue to provide such low standards of care to its vulnerable older citizens.

In the words of Commissioner Tony Pagone:[4]

> Mere adjustments and improvements to the current system will not achieve what is required to provide high-quality care that is predictable, reliable, and delivered through a system which is sustainable. A profound shift is required in which the people receiving care are placed at the centre of a new aged care system.

The Royal Commission's most significant and novel recommendation is the adoption of a rights-based model for aged care.[5] This approach turns the aged care system on its head by putting the needs and preferences of older Australians first. It throws away the old paradigm of rationing aged care, which has led to so many of the problems in the system today.[6]

3. The Royal Commissioners said government 'does not respond well, or predictably, to selective ad hoc or "bolt on" reforms': Royal Commission into Aged Care Quality and Safety (2021a, p. 39).
4. Royal Commission into Aged Care Quality and Safety (2021b, p. 3).
5. As Grattan Institute argued in our two recent reports: Duckett et al (2020b) and Duckett et al (2020a). The Royal Commissioners noted there had been vigorous support of a rights-based approach in response to the Counsel Assisting's final submissions: Royal Commission into Aged Care Quality and Safety (2021a, p. 5). This is similar to the rights-based National Disability Insurance Scheme.
6. Royal Commission into Aged Care Quality and Safety (2021c, p. 101).

A rights-based approach means people's rights don't just start after they enter the aged care system – older Australians should have a right to care when it is needed.

Respecting older Australians' rights means they can make their own decisions, including taking their own personal risks. It means they can raise incidents of abuse without fear.[7] Dignity and independence should not be lost merely because someone is frail or impaired.

Respecting rights is also about the seemingly little things. It's about being part of the conversation, not the subject. It's about being able to find out whether there are towels for a morning shower or social activities in the afternoon. It's about being able to make decisions about when to get out of bed, or what meals to eat and when. A survey conducted for the Royal Commission found that being treated with respect and dignity was the most important factor for older Australians when they were rating a service provider.[8]

In the words of the Royal Commission:

> Aged care is much more than the sum of tasks that meet an older person's biomedical and basic daily living needs... Older people have their own desires and goals for a meaningful life and for their pursuit of happiness. The aged care system should support older people to achieve these goals.
>
> The care and support to be provided in the new system should enable older people to continue to find hope, enjoyment and meaning, as far as possible, at all stages of their life and regardless of poor health or physical or cognitive impairment.[9]

No Australian would argue with that.

All reform proposals should be judged on whether they would help empower older Australians and uphold their rights.[10] Good-quality care on its own is not enough. Rights matter.

1.2 The early signs from the Government are not promising

The Federal Government must transform aged care. While the Prime Minister acknowledged the need for a paradigm shift, actions speak louder than words.

In its initial response to the final Royal Commission report, the Government announced an extra $452 million for aged care. This initial response does not appear to respond to the Royal Commission's recommendations, and fails to mention human rights (see table below).

Issue	Royal Commission recommendation	Government response
Restraints	Amend the Quality of Care principles to provide that the use of restraints must be based on an assessment by an independent expert	A senior restraint practitioner to be appointed to lead an education campaign to minimise use
Quality standards	Quality standards need to be independently reviewed	Government review to enhance the quality standards
Home care	Clear the 100,000-person waiting list by the end of the year	No new packages, increased oversight of home care (not an RC recommendation)
Funding	Increased tax through levy on personal income	No increased tax, potential increased user contributions

Although the full government response is yet to come in the upcoming May 2021 Budget, and its formal response by 31 May 2021, the initial

7. Fear of reprimand was highlighted in the Royal Commission's interim report: Royal Commission into Aged Care Quality and Safety (2019b, p. 8).
8. Ratcliffe et al (2020, p. 24).
9. Royal Commission into Aged Care Quality and Safety (2021a, p. 5).
10. The Royal Commission said the purpose of the aged care system 'must be to ensure that older people have an entitlement to high-quality aged care and support': Royal Commission into Aged Care Quality and Safety (ibid, p. 14).

announcement to date gave no hint that the government had accepted the seriousness of the problems facing older Australians who need access to good quality care and the need for systematic reform to address those issues.[11]

This may signal the start of a worrying trend where the Government takes the 'theme' of a recommendation, but does not address it specifically.[12] And while a boost to funding is welcome, it is insufficient by an order of magnitude (see Chapter 5).

The May 2021 Budget will provide an opportunity for the Government to step up its response. The Government must seize this moment. On aged care, Australia cannot fall back to business-as-usual.

The Government says 'five pillars' will underpin its response to the Royal Commission: home care, residential aged care quality and safety, residential aged care services and sustainability, workforce, and governance.[13] It is clear this response was rushed and likely prepared prior to report completion, as the 'pillars' do not reflect the language or the balance of the final report. They do not start in the right place – with the rights of older Australians. They focus on 'quality and safety', not self-determination. They separate home care and residential care, which the Royal Commission recommended be integrated into one program. Categorisation into 'pillars' also implies the Government may merely announce 'fixes' on each pillar, without adequately transforming the system as a whole.

1.3 The four reform essentials

Although the Royal Commissioners agreed on the fundamental reforms needed, unfortunately they didn't agree on everything. The two Commissioners had 43 points of disagreement. As a consequence, the final report, covering 2,800 pages, is littered with conflicting recommendations, playing out as a policy debate on the page.

This Grattan report seeks to provide clarity. We highlight four areas of reform – to the aged care delivery model; governance and accountability; the aged care workforce; and funding and financing – that are absolutely fundamental to ensuring a better aged care system. Of course, many other areas need to change, but unless these four are addressed properly, it will largely be business-as-usual.

The following chapters explore each of these four areas in more detail.

11. See the Government's 1 March 2021 announcement: Hunt (2021).
12. The Department of Health's response to the Counsel Assisting recommendations also fails to acknowledge the language of 'rights'. It quasi-addresses the issue by stating that older Australians must be at the centre of the system: Royal Commission into Aged Care Quality and Safety (2021a, p. 6).
13. See Hunt (2021).

2 Reforming the delivery model

To uphold older Australians' rights, Australia needs a new service delivery model for aged care. It is no longer acceptable to ration care, and leave people languishing on waiting lists.

The Royal Commission has called for a new service delivery model (see Box 1). The Commissioners recommend a new rights-based Aged Care Act that creates an entitled to *needs-based* care. This chapter identifies the key criteria that must be met to help create a rights-based delivery model.

2.1 Key criteria for service delivery reform

At a minimum, the following five criteria must be met if Australia is to re-design the aged care delivery system in a way that supports human rights. The Government's response to the Royal Commission should be judged against these criteria.

1. Older Australians' rights must be articulated in a new Aged Care Act and those rights must be reflected in the care each older Australian receives
2. Integrated assessment and planning of each older Australian's care must be personalised to each person's needs and preferences[14]
3. Each older Australian must be entitled to certainty of funding for the care they are independently assessed as needing, and they must get that care when they need it[15]
4. Older Australians' preference to receive care and support at home should be supported as far as possible[16]
5. Each older Australian must have genuine choice and control about how their care needs are to be met, and be supported by a local independent advocate in exercising that choice

Box 1: Key Royal Commission recommendations

Royal Commission recommendations to improve the service delivery model for aged care include:

- ✓ A new rights-based Aged Care Act, with entitlement[a]
- ✓ A new single aged care program, including both care at home and residential care, with a single and integrated assessment process[b]
- ✓ Care finders employed by government to help older Australians get care services*[c]
- ✓ Care managers employed by providers to help older Australians manage their care services[d]

**Recommendation made by Commissioner Briggs only*

a. Recommendation 1.
b. Recommendation 25 and 28.
c. Recommendation 29.
d. Recommendation 31.

14. Personalising care is central to upholding dignity: Royal Commission into Aged Care Quality and Safety (2021a, p. 8).
15. 'Need' must not be defined so narrowly as to unreasonably prevent people being eligible for care.
16. This should entitle people to receive funding at home up to the amount they would be eligible for if receiving residential care, as per recommendation 119.

2.2 Employ care finders to support older Australians' rights

Commissioner Briggs' proposal for care finders – government employees that help older Australians navigate the system – is absolutely fundamental in ensuring a rights-based system.[17] A crucial failure of the current system is that it assumes a well-functioning market where older Australians have choice. But without information, support, and service options, this assumption falls apart.[18]

Care finders should provide face-to-face help to older Australians as they try to navigate the aged care system. They should be agents or independent advocates for older people, not for government. They should train older Australians and their families in what human rights means for their care – including why supported decision-making, not substituted decision-making, is important. Care finders' capability is crucial to the success of supported decision-making.

This means care finders should be qualified,[19] independent from service providers, and locally-based in a regional organisation rather than operating out of a distant centralised body or through an online chat function.[20] They cannot merely operate out of 'regional offices' of the department, but must have some level of independence, employed by independent regional organisations.

Care managers, also recommended by the Royal Commission, should be enablers. They must not be paternalistic. The assumption should be that older Australians are able to manage their own care services. They must have relevant qualifications and experience working with older Australians, and be overseen by the local regional organisation.

17. Recommendation 29.
18. Royal Commission into Aged Care Quality and Safety (2021a, p. 14).
19. There should be a comprehensive training program to qualify care finders.
20. There is some evidence to show that care navigators or coordinators can improve processes of care: McBrien et al (2018).

2.3 Link funding to care plans to enhance older Australians' rights

The Royal Commission recommendations are a step in the right direction, but the Commissioners are not clear on how the assessment process should be linked to funding for the 'care at home' category. Funding should not be top-down and rationed, based on paternalistic classifications. Funding should be enabling, personalised, and reflect older Australians' universal right to care.

In the care at home category, the Commissioners say that 'individualised budgets, case-mix funding levels, or some other mechanism for funding' could be used, pending the findings of further research.[21] This would best be done by the reformed Independent Hospital and Aged Care Pricing Authority – which has expertise – rather than the system governor, as the Commission proposes.[22]

Funding assessment should be integrated with care planning, to make access to services one continuous process.

Care plans should be seen as a contract between the provider and the individual, with providers held to account for delivery. Care finders, alongside the person receiving care, should monitor and review the implementation of the plans. This cannot be done by care managers who are employees of the provider.

To be sustainable, the services paid for under a care plan should be limited to what is reasonable and necessary. To ensure accountability and equity across Australia, it is important that 'reasonable and necessary' has a consistent meaning – a person with the same needs

21. Research commissioned by the Department of Health looked at different classification and funding models for a new home care program: HealthConsult (2020). It tested three classification and funding models: service event level, episode level, and mixed service event and episode level.
22. Royal Commission into Aged Care Quality and Safety (2021a, p. 174).

and preferences should have access to the same set of services wherever they live.

Case-mix classification is crucial. Data should be collected which assigns people to a classification, and the total cost of their services recorded. The system governor should establish a 'shadow' monitoring system – using the classification to measure whether the costs of similar people is consistent. If the averages are different across regions and demographics – either too high or too low – then the system governor should review and challenge the assessment processes.

A new payment classification – known as AN-ACCC – is being trialed for residential care. It should be reviewed after three years, and assessed on its ability to uphold the rights of older Australians.

3 Reforming governance and accountability

Reforming governance is fundamental to improving aged care. The Royal Commission found that there had been 'a vacuum in leadership of the entire aged care system'.[23] Business-as-usual cannot go on.

The Commissioners disagreed on governance and accountability (see Box 2). This chapter identifies the key criteria for governance and accountability of a truly rights-based system, and traces a path through the Commissioner's disagreements.

3.1 Key criteria for governance reform

At a minimum, the following five criteria must be met if Australia is to improve the governance of aged care in a way that supports human rights. The Government's response to the Royal Commission should be judged against these criteria.

1. There must be sufficient independence in governance and regulatory arrangements to enable advocacy for older Australians' rights
2. Providers must be held accountable for upholding the rights of older Australians in their care, and there must be consequences for provider boards that fail to do so
3. The system of planning and provider regulation must be decentralised and based on relationships with older Australians, not just compliance with top-down rules
4. Transparent information must be available that enables people to meaningfully compare providers' performance and commitment to upholding the rights of older Australians
5. Support structures must enable older Australians' voices to be raised and heard

Box 2: Key Royal Commission recommendations

Royal Commission recommendations to improve governance and accountability in aged care include:

- ✓ Enhanced quality standards[a]
- ✓ A new governance structure with a system governor, quality regulator, prudential regulator, independent price-setting body, and independent Inspector-General*[b]
- ✓ Probity and governance requirements on providers, and civil duty on providers to provide high-quality care[c]
- ✓ Regional offices for on-the-ground support*[d]
- ✓ An Aged Care Advisory Council or a Council of Elders*[e]
- ✓ Expanded quality indicators and star ratings to enable people to compare provider performance[f]

**Recommendation where the Commissioners disagreed*

a. Recommendations 13, 19-21, and 95.
b. Recommendations 5, 7, 8, 11, and 12.
c. Recommendations 88-91, and 101.
d. Recommendations 5 and 8.
e. Recommendations 7 and 9.
f. Recommendations 22-24.

23. Ibid (p. 38).

3.2 Independent governance

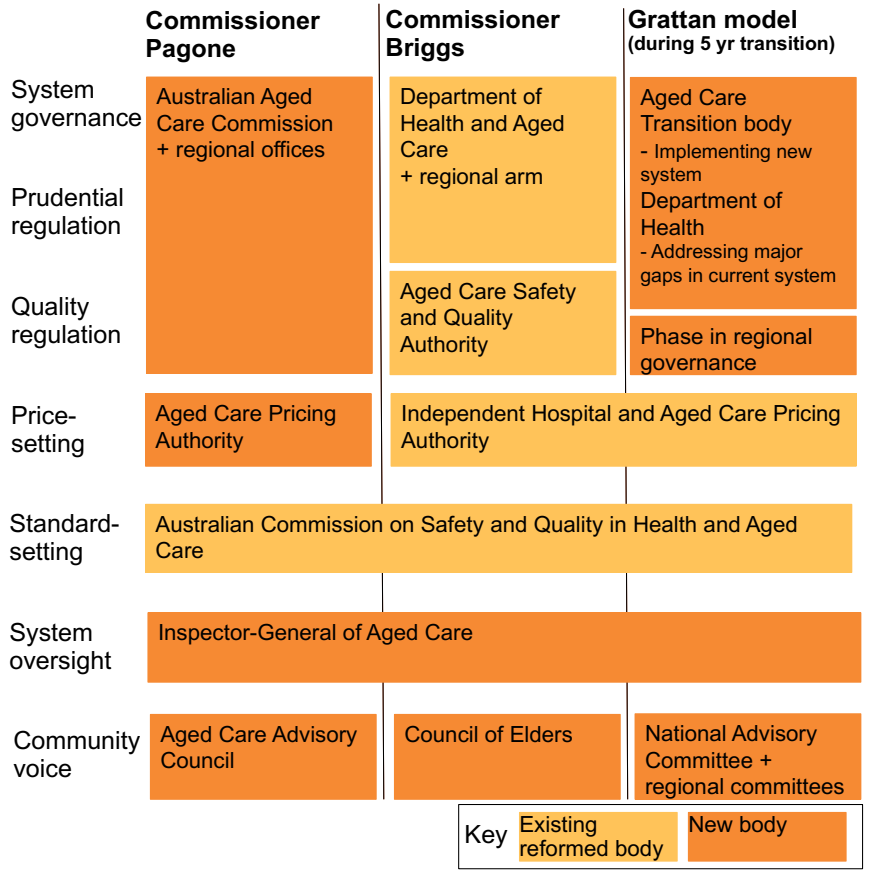
The Royal Commissioners disagreed on the extent to which independent governance was important. They both agreed on the need for an independent pricing function, regulatory function, and Inspector-General, but they disagreed on whether the system governor should be independent as well.

Commissioner Pagone recommended moving system governance away from the Department of Health and into an independent commission. Commissioner Briggs was concerned that this would weaken the direct accountability of ministers and delay the implementation of a new rights-based system, because establishing a fully-functioning commission would take about two years.[24]

But keeping the department in charge would merely continue the unacceptable status quo.[25] The department has a weak track record on aged care.[26] Its failure to adequately manage the COVID-19 crisis in residential aged care provides the case example.[27]

An independent commission could foster expertise and establish clear points of accountability for managing a better aged care system. This way, 'the care of older people [would] not be overwhelmed by the Australian Department of Health's priorities, bureaucracy, and budgets'.[28] The commission would still be responsible to the relevant Minister. The Department of Health could also continue to have a role in providing policy advice to government, and ensuring aged care policy is more integrated with disability and health care policy.[29]

Figure 3.1: Resolving the differing approaches to governance



24. Ibid (p. 45).
25. Commissioner Pagone says that 'the extent of the problems documented in this report is such that incidental changes to the way the system is structured and governed will not be sufficient to build a better, sustainable long-term care system': Royal Commission into Aged Care Quality and Safety (ibid, p. 44).
26. Commissioner Pagone argues that 'in effect... a senior Minister has run the system into its present state': Royal Commission into Aged Care Quality and Safety (ibid, p. 41).
27. The Senate Select Committee on COVID-19 (2020).
28. Royal Commission into Aged Care Quality and Safety (2021a, p. 43).
29. Commissioner Pagone suggested the Department head would be an ex officio member of the board of the Australian Aged Care Commission: Royal Commission into Aged Care Quality and Safety (ibid, p. 41).

The key question is what institutional structures are needed to ensure rights-based care? Independence would help ensure decisions are in the interests of older Australians, separate to political and budgetary concerns.

We recommend that an independent transitional body, reporting directly to the Minister, be established immediately to oversee the transition to a new aged care system (see Figure 3.1).[30] With strong leadership and expertise, it could help drive the much-needed culture change, with the Inspector-General overseeing the implementation of reform, reporting annually to parliament.[31] The transitional body should be reviewed after three-to-five years, to determine whether it should become permanently independent, or be subsumed into the Department of Health (but with regulatory functions remaining with independent regional bodies).

While the Aged Care Transition body implements the new system, the Department of Health should be responsible for addressing major gaps in the current system, such as clearing the waiting list, raising the basic daily fee, and amending the Quality of Care Principles.

Both Commissioners agreed that a reformed Australian Commission on Safety and Quality in Health should be responsible for aged care quality standards – separating the standard-setting function from the regulatory function. To make this work, the reformed body will need to establish a specialised aged care committee, so that standards are set by experts that consider not only clinical, but also non-clinical factors, such as lifestyle and rights-based criteria that enhance independence and dignity.

30. This body should be set up immediately as a non-statutory body corporate Commonwealth entity under the Department of Health, but then be made statutory when the new Aged Care Act commences.
31. Leaders of the transition body should have a mix of skills and experiences relating to aged care, health care, and so on. It should also have older people with 'lived experience', and generic governance skills. To ensure independence, the board should include both ministerially-appointed and directly-appointed members.

3.3 Regional governance

The Commissioners agreed that regional offices should be established across Australia to help older Australians access the aged care system locally.[32] It is crucial that these offices are clearly constituted regional organisations with their own boards, rather than mere regional outposts of a Canberra-centric bureaucracy.[33]

A decentralised approach to regulation and local service system planning would help overcome the failures of the centralised, top-down compliance-based approach to date.[34] Through regulation of providers in a service area, regional organisations would be well placed to help build a local service system that meets the specific needs of their communities.[35] Local links would enable regulation to be based on relationships rather than merely binary tick-box compliance, which is particularly important in this case where quality is not easy to specify.[36]

Regional organisations should then be accountable to the central body for the quality of the services provided to older people. If a regional organisation continues to fall short, even after attempts by the central body to improve their performance, the central body should have the

32. See recommendations 5 and 8.
33. Having their own boards is especially important if aged care is run by the Department of Health (rather than an independent commission): Royal Commission into Aged Care Quality and Safety (2021a, p. 67).
34. Local system governance and planning has been sorely lacking since the federal government assumed responsibility for all forms of aged care in 2012, replacing most states and territories: Royal Commission into Aged Care Quality and Safety (2021c, p. 11).
35. This would involve engaging with the community and managing the service system in regional or remote settings, or partnering with Aboriginal Controlled Community Health Organisations, and other relevant organisations, to ensure care planning and provision takes account of different cultural needs. Indigenous Australians often favour assessment and service provision by organisations controlled by Indigenous Australians within their local communities: Broe (2019).
36. See theory of incomplete contracts: Hart and Moore (1999).

ability to intervene and, for example, appoint an independent adviser to the board, or transfer funding to another organisation.

Regional organisations could also be made responsible for pricing of care-at-home services, where significant differences exist in cost structures, to ensure prices reflect local variations.[37] Regional organisations would then negotiate regional-specific prices, and be accountable through the nationally consistent shadow classification process. Separately, a reformed Independent Hospital Pricing Authority (IHPA) should be responsible for pricing under AN-ACC, and reviewed after three years.[38]

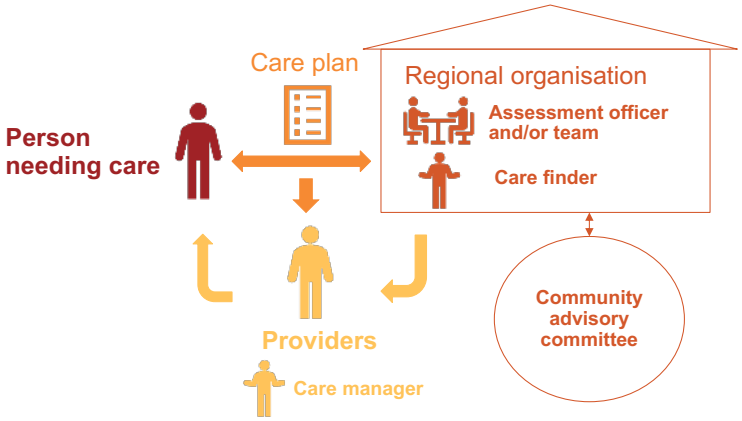
3.4 Strengthening older Australians' voice

The Royal Commission acknowledged the importance of having older Australians' voices heard, with both Commissioners recommending advisory bodies – albeit with differences in name and constitution. Commissioner Pagone proposed an Aged Care Advisory Council that would include older Australians, providers, health and allied health professionals, and independent experts. Commissioner Briggs proposed a Council of Elders, a national body made up of older Australians, with a wide remit to advise government.

Whatever its name, a national body that exclusively represents older Australians, particularly people with lived experience, is important. It should not have any provider representatives. It should be made up of a diverse and representative group of older Australians, able to 'speak truth to power and provide a continuing voice to government from older people'.[39] Commissioner Pagone's proposal risks drowning out the voice of older Australians. Instead, a separate advisory body could have provider groups and other experts.

The community advisory body could directly advise the system governor and the Minister, and co-design reform, with all advice made public. Such a community advisory committee should also be replicated in each region, advising the local regional organisation (see Figure 3.2).

Figure 3.2: Grattan's proposed regional governance approach



37. Regional organisations should then be monitored, and their price fees reviewed, by the central body or pricing authority, using activity-based funding methodologies to ensure equity in their approach (see Section 2.3).
38. The reformed IHPA should have board members with aged care expertise, and an aged care advisory committee to help build the revised aged care (AN-ACC) classification structure. Pricing decisions should be advisory to the transition body, and become determinative if aged care governance returns to the department.
39. As argued by Commissioner Briggs: Royal Commission into Aged Care Quality and Safety (2021b, p. 89).

4 Reforming the workforce

The quality of aged care will not improve unless major changes are made to the workforce. At present the care workforce is under-trained, underpaid, over-stretched, and insecure. Substandard care will continue until this changes.

Better work conditions should help attract more people into carer roles. Australia needs about 70,000 more care workers,[40] and demand is expected to increase in coming decades as the population continues to age. The Royal Commission made good recommendations to reform the workforce (see Box 3), but there must also be an emphasis on rights-training.

4.1 Key criteria for workforce reform

At a minimum, the following five criteria must be met to raise the quality and quantity of care staff in a way that supports older Australians' human rights. The Government's response to the Royal Commission should be judged against these criteria.

1. There must be a mix of adequately trained personal care staff (at least Certificate III), including in dementia and rights-based care
2. Personal care workers must be registered, and their competencies independently assessed
3. Minimum care hours must be set and enforced, based on the residents' needs and enabling continuous caring relationships
4. There must be minimum nurse supervision in residential care
5. Workforce planning and strategy must attract more workers into the system, especially in response to the expansion of home care

40. Duckett et al (2020a, p. 65). This is about 20 per cent more than at present.

Box 3: Key Royal Commission recommendations

The Royal Commission recommendations to improve the care workforce include:

- ✓ National registration of all personal care workers[a]
- ✓ Minimum Certificate III training of personal care workers, and mandatory dementia training[b]
- ✓ Standards of training programs should be reviewed[c]
- ✓ A registered nurse must be on site 24/7, with minimum care hours reported every three months, adjusted for the case-mix, including for home care[d]
- ✓ Increase award wages for care workers and reflect higher wages in fee determinations[e]
- ✓ Reward providers for employing carers directly rather than using independent contractors*[f]
- ✓ Create an Aged Care Workforce Planning Division in the Department of Health, to work with a reformed Aged Care Workforce Industry Council[g]

**Recommendation made by Commissioner Briggs only*

a. Recommendation 77.
b. Recommendations 78 and 80.
c. Recommendations 78, 79, and 83.
d. Recommendation 86 and 124.
e. Recommendations 84 and 85.
f. Recommendation 87.
g. Recommendations 75 and 76.

4.2 A rights-trained workforce

The aged care system can only be rights-based if all those delivering care and support are educated and trained to understand and apply human rights.[41]

As well as the additional competencies proposed by Commissioner Briggs,[42] Certificate III mandated training should also include competencies in human rights and its practical implications for all staff employed by a provider. Carers should be trained to deal with complex rights-based questions, such as how to support the right to autonomy when people want to take personal risks. Training should also include a placement as part of certification or registration.

4.3 A supported workforce

The government will need to move quickly to boost the number of qualified care workers, as the home care waiting list is cleared, and care hours are increased in residential care. In the longer term, even more will be needed as the population ages.

The Royal Commission recommends that the Department of Health and a reformed Aged Care Workforce Industry Council work together to attract workers to aged care. But this will be possible only if work conditions are significantly improved. This requires better pay, better training, better career progression opportunities, and a better work environment.

To enhance continuity of care, providers should be relying much less on independent contractors or casual staff, and much more on directly-employed staff.[43]

The system needs carers who enjoy building relationships with older people, and who have the time to do so. This is fundamental to upholding older Australians' sense of self and dignity.[44]

41. This includes family and friends, as well as staff.
42. Under recommendation 79 (2), Commissioner Briggs proposed that as part of the review of the training programs, two additional units of competencies should be included as core competencies: (1) personal care modules, including trauma-informed care, cultural safety, mental health, physical health status, wound care, oral health, palliative care, falls prevention, first aid, monitoring medication, and dysphagia management, and (2) quality of life and well-being, including the use of technology, interventions for older people at risk, and recognising and responding to crisis situations.
43. See recommendation 87.
44. Royal Commission into Aged Care Quality and Safety (2021a, p. 8).

5 Reforming the funding and financing model

The Royal Commission lays blame for the failures in the aged care system on, among other things, inadequate funding. Over time, expenditure has not kept pace with demand, with vulnerable older Australians dropping to the bottom of the fiscal priority list.

Aged care funding should be increased immediately. And more money will be needed as the population continues to age. The Royal Commission recommended a new funding model that would provide a universal right to care, and proposed a way to finance it (see Box 4).

This chapter identifies ways to pay for better aged care, including and beyond the options recommended by the Royal Commission, and shows why a universal funding model is equitable and rights-based.

5.1 Key criteria for funding and financing reform

At a minimum, the following five criteria must be met to improve the funding and financing of aged care in a way that supports human rights. The Government's response to the Royal Commission should be judged against these criteria.

1. Government funding for aged care should no longer be rationed, but instead based on need and underpinned by a secure funding source equitably raised[45]
2. Government should fund universal entitlement to independently assessed, reasonable, and necessary care that is personalised to the individual's needs, with no user charges for care
3. Users should pay for ordinary costs of living, such as accommodation and meals, with contribution requirements made simple and easy to understand
4. User contributions should be means-tested, so no one misses out on necessary care because they don't have enough money
5. Providers should report their finances in a transparent way, demonstrating the link between the funding they get and the care they provide

45. 'Need' must not be so narrowly defined as to unreasonably prevent eligibility.

Box 4: Key Royal Commission recommendations

The Royal Commission recommendations on funding and financing include:

- ✓ A new funding model that splits care costs, such as nursing, from ordinary costs of living, such as meals and accommodation*[a]
- ✓ Government provides universal funding for care, just as Medicare funds patients in public hospitals*[b]
- ✓ Means-tested rental payments in residential care (capped)*,[c] with Refundable Accommodation Deposits phased out*[d]
- ✓ A new aged care levy (hypothecated or unhypothecated)*[e]

**Recommendation where the Commissioners disagreed*

a. Chapter 17, 21-22.
b. Recommendations 118-120.
c. Recommendations 127-129, and 140-141.
d. Recommendation 142.
e. Recommendations 138 and 144.

5.2 Aged care needs more funding

The federal government must spend a lot more on aged care, not only to make up for the shortfall in spending today but to pay for the increased use of services as the population ages. The present ration-based approach means funding is determined 'irrespective of the level of need, and without sufficient regard to whether the funding is adequate to deliver quality care'.[46]

Australia spends less on aged care than similar countries with good aged care systems. Netherlands, Japan, Denmark, and Sweden spend between 3 per cent and 5 per cent of their GDP on long-term care.[47] The Australian Government spends only 1.2 per cent.[48]

Funding into the long-term should be at a level that guarantees older Australians the care they need, and ensures providers are able to provide quality care with adequately paid staff.

The Royal Commission did not cost its proposals, but Grattan Institute analysis conducted before the Commission's final report was released found that the aged care system needed at least 35 per cent more per year ($7 billion on top of the current $20 billion) to uncap home care and lift standards in residential care.[49] The Royal Commission found that successive governments have failed to set funding levels for aged care services in a way that reflects the real cost of providing aged care, with subsidies indexed at a lower rate than provider input costs. When combined with the efficiency dividend, these government decisions have resulted in government spending $9.8 billion less than it should have in 2018-19.[50] In light of this finding, we now call on the Government to meet this shortfall.

Reforms to boost funding could transform the system, by:

- Clearing the 100,000-person home care waiting list, with everyone receiving care within 30 days of assessment
- Allowing a higher level of funded care at home, so that older Australians could stay at home for as long as possible
- Boosting the aged care workforce, with at least an extra 70,000 carers providing minimum care hours per resident per day
- Making it easier for people to navigate their way around the system, with thousands of care finders located across Australia to provide face-to-face support to older Australians to get services that meet their preferences
- Making the system more transparent, with stricter monitoring to ensure that taxpayer money is spent on high- quality care, not provider profits

Costs are also expected to increase as the population ages.[51] Older Australians are expected to make up about 20 per cent of the population within the next two decades as the 'Baby Boomer' generation reaches older age.[52] This means 2.5 million more Australians than today will be older than 65, and life expectancy is increasing.

The Parliamentary Budget Office has projected that over the next 10 years, aged care spending will increase by 4 per cent each year, after

46. Royal Commission into Aged Care Quality and Safety (2021b, p. 74).
47. Dyer et al (2020, p. 43).
48. Dyer et al (ibid, p. 43). Note that there are some acknowledged difficulties with comparing international expenditure on aged care.
49. Note that these costings do not include the incremental costs of the new model due to increases in the number of older Australians over time, compared to cost increases under existing model due to population shifts, and do not include costs for any negotiated wage increases: Duckett et al (2020a).
50. Noting that the methodology for these calculations is not reported: Royal Commission into Aged Care Quality and Safety (2021b, p. 13).
51. Note that Grattan's costings did not take account of population growth.
52. Australian Institute of Health and Welfare (2018, Figure 1).

correcting for inflation.[53] Commissioner Pagone said that by 2050, expenditure on aged care would probably be 2.75 per cent of GDP, 1.41 per cent higher than if current policy settings were maintained.[54] Deloitte Access Economics estimates that by 2030, with a better system, the federal government would need to be spending at least $42 billion on aged care each year, and by 2050, $133 billion.[55]

5.3 Who should pay?

Currently, aged care is primarily funded by government, with users paying only about one quarter of costs. This varies significantly between programs: users pay less than 5 per cent of home care costs, about 10 per cent of home support costs, and 40 per cent of residential care costs.[56]

As the Royal Commissioners recommend, care costs should be split from ordinary living costs. The former should be paid by governments, and the latter by individuals receiving the service (means-tested).

The Commissioners diverge on how far this reform should go. Commissioner Pagone proposes that eventually, if a hypothecated levy is introduced, means-testing arrangements should be removed.[57] But this recommendation goes too far in its demands on spending.

5.3.1 Users should pay for ordinary costs of living, subject to means-testing

Ordinary living costs, such as cleaning, gardening, and accommodation, should be paid for by the older person receiving the service, just as they would have to have had paid for it or done it themselves prior to needing care.

These payments should be means-tested, and the test should include both income and assets. In the case of care at home, this is likely to increase co-contributions made by older Australians, because they are currently determined at the whim of the provider.[58]

In the case of residential care, some or all of the value of the home should be included in the assets means-test. Funding for capital, facilities, and other fixed costs should be separated from funding for individual supports.

People with low incomes but high assets should have the option to pay rent or to have an equivalent value deducted from their estate after death. This would effectively work as a reverse mortgage. Home equity could be released to fund rental payments via a reformed Pension Loans Scheme with a lower interest rate than the 4.5 per cent rate currently offered.[59]

As rental payments for residential care are introduced, Refundable Accommodation Deposits should be phased out. But, as the Royal Commission acknowledged, this will require an alternative source of financing through a capital financing facility.[60]

5.3.2 Government should pay for care costs

Australia should not increase user charges for care. Older Australians' access to needed care shouldn't be based on their capacity to pay. Some need little or no support; others need a lot. Government coverage of care is universal insurance that protects those that have high care needs.

53. Royal Commission into Aged Care Quality and Safety (2021c, p. 34).
54. Royal Commission into Aged Care Quality and Safety (2021b, p. 18).
55. Deloitte Access Economics (2020, p. 35).
56. Aged Care Funding Authority (2020, p. 13).
57. Royal Commission into Aged Care Quality and Safety (2021d, p. 693).
58. Aged Care Funding Authority (2020, p. 47).
59. Services Australia (2020).
60. Duckett et al (2020a, p. 45).

Nor is it sensible to require many Australians to self insure against the prospect of needing to pay additional out-of-pocket aged care costs. After all, not all Australians will require any or the same amount of aged care.

The Federal Government's Retirement Income Review also found that many retirees are net savers.[61] They die with most of their retirement savings still intact, in large part because they were concerned about future health and aged care costs.[62] Relying on higher user contributions for aged care could increase such precautionary savings even further.

Applying a means test to care costs could also make Australia's already byzantine aged care system even more complex. Many people already find it hard to estimate and plan for the cost of their aged care.[63] Costs can vary significantly depending on the type of care and length of time spent in care.

And more means testing could cause vulnerable people, especially those just above income cut-offs, to miss out on needed care.

5.4 Options for financing government spending on aged care

The Federal Government should finance the significant cost of these reforms through some combination of a Medicare-style levy on taxable income, changes to the pension assets test and/or the residential aged care means test, reductions in generous tax breaks on superannuation, and/or other mechanisms.

The onus is on the Government to identify what it regards as the best way or ways to fund the increased spending, and to announce its decision soon.

61. Treasury (2020).
62. Ibid (p. 440).
63. Aged Care Financing Authority (2018).

5.4.1 Consider a Medicare-style aged care levy

The Royal Commissioners suggest an aged care levy to provide a secure funding stream to pay for the significant costs of aged care.

Commissioner Briggs	Commissioner Pagone
Aged care unhypothecated improvement levy of 1% taxable personal income introduced in legislation by 1 July 2022, commencing 1 July 2023	Hypothecated aged care improvement levy (flat rate or progressive), to be investigated by the Productivity Commission

A Medicare-style aged care levy would share costs across the community. And, as Commissioner Briggs argues, the visibility of such a levy would help taxpayers hold government to account.

A recent survey found an overwhelming majority of Australians thought the government should provide more funding for aged care, and 61 per cent would be willing to pay more tax to pay for it.[64] Another recent survey found about half of respondents would support a levy.[65]

A 1 per cent levy on taxable income, as proposed by Commissioner Briggs, would generate about $8 billion per year.[66] About 9.9 million Australians would pay extra income tax, costing the median person about $610 per year.[67]

64. Ratcliffe et al (2020).
65. Essential (2021).
66. Based on ABS figures, where the 'Government health insurance levy', i.e. the 2 per cent Medicare levy, raised $15.64 billion in 2017-18 and $16.74 billion in 2018-19: ABS (2020a) This is supported by another study conducted during the Royal Commission which found that a 0.65 per cent increase in the Medicare levy would raise $5 billion per year: Equity Economics (2020).
67. Based on 2017-18 figures: Clun and Duke (2021) and ABS (2020b).

5.4.2 Reduce tax breaks for wealthy older Australians

Younger Australians shouldn't have to shoulder all the costs for older Australians, especially when many older Australians have the capacity to pay more. The average household headed by someone aged 65-74 now has more than $1.3 million in net assets. That figure has more than doubled in the past two decades.[68] Reducing generous tax breaks for wealthy older Australians could help fund aged care and would reduce intra- and inter-generational inequity.

Include more of the family home in the pension assets test

More of the value of the family home should be included in the pension assets test.

The current rules effectively count only the first $214,500 of home equity when applying the Age Pension assets test; the remainder is ignored.[69]

Many Age Pension payments are made to households that have substantial property assets. Half of the government's spending on age pensions goes to people with more than $500,000 in assets.[70]

Counting more of the home above some threshold (such as $500,000) would make the pension fairer and would save the budget up to $2 billion a year.[71] No pensioner would be forced to leave their home.

Low-income retirees with high-value houses could continue to receive the pension by borrowing against the value of their home[72] under recent changes to the Government's *Pension Loans Scheme*.[73] Further parallel changes, to reduce the effective interest rate where the borrowing is for residential aged care, may also be appropriate. If retirees responded rationally, the reform would have no effect on their actual retirement incomes – instead it would primarily reduce inheritances.

This reform would also reduce the unfairness of the current system that treats homes and other assets very differently. And it seems unfair that the current system pays welfare to retirees who own homes that many in a younger generation will never be able to buy.[74]

The impact of this change could be mitigated if the value of the family home that is included in the pension assets test was increased only gradually. This would give retirees more time to decide how to respond to the new rules.[75]

Alternatively a greater portion of the family home could be included in the means tests for residential aged care. Since residential care is typically a person's final place of accommodation, the family home is no longer an accommodation option, nor a vehicle for precautionary saving. Instead the primary motivation for retaining the home in such situations is for bequests.

Including more of the value of the family home in the aged care means test would improve equity between homeowners and non-homeowners, and help to ensure that care recipients with the financial ability to do so pay for more of their own accommodation and care costs.[76]

68. Wood et al (2019).
69. Services Australia (2021).
70. Daley et al (2018, pp. 98–99).
71. Ibid.
72. Ibid (p. 99).
73. Changes to the Pension Loans Scheme announced in the 2018 Budget may result in a few more retirees drawing down on the value of their home. The Government has expanded access to everyone over Age Pension age and increased the maximum fortnightly income stream to 150 per cent of the Age Pension rate: The Treasury (2018, p. 175).
74. Daley and Coates (2018, p. 85).
75. Ibid (p. 85).
76. Coates and Nolan (2020, p. 71).

Tighten superannuation tax breaks

To help fund aged care, the Government should also wind back excessively generous tax breaks for older Australians, especially in superannuation, which result in only one in six over-65s paying any income tax.[77] Superannuation tax breaks cost about $35 billion a year, and that figure is growing rapidly. By 2040, super tax breaks are expected to cost the government more than the Age Pension.[78]

Superannuation earnings in retirement – currently untaxed for people with superannuation balances of less than $1.6 million – should be taxed at 15 per cent, the same as superannuation earnings before retirement. This would improve budget balances by about $6 billion a year today, and much more in future.[79] Tightening super tax breaks would mean the wealthiest 20 per cent of older Australians would pay more – but they are precisely the group with the capacity to contribute more to the cost of their own aged care.

Seniors also pay less tax and get a higher rebate on private health insurance than younger people on the same income, through the Seniors and Pensioners Tax Offset (SAPTO) and a higher Medicare levy income threshold. Winding back these concessions could save another $700 million a year.[80] Again, these changes would most affect seniors who are wealthy enough to receive little or no pension – precisely the group capable of paying more for aged care.

5.5 Prudential oversight is crucial

More spending alone will not fix the aged care the system. The extra spending must be accompanied by changes to regulation and transparency. If not, the risk is that the extra funding will go straight into providers' pockets. Enhanced prudential oversight should ensure that taxpayer money allocated to aged care is actually spent on caring for older Australians.

77. See details in Grattan's 2018 report *Money in Retirement*: Daley and Coates (2018).
78. Treasury (2020).
79. Grattan analysis ABS (2019).
80. Daley et al (2016).

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